

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 13 OF 2024

Devdayal Ramujagir Chaurasiya	..Applicant
Versus	
The State of Maharashtra	..Respondent

Mr. Sanjay Singh for Applicant.
Ms. Sharmila S. Kaushik, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 8 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.2042 of 2022, registered at Sakinaka Police Station, on 27.09.2022, under sections 408 and 420 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Sanjay Singh, learned counsel for the applicant and Ms. Sharmila Kaushik, learned APP for the State.
3. The F.I.R. is lodged by one Nilesh Ghadge. He was working with M/s. Speednex Delivery Pvt. Ltd. having office at Andheri Kurla road, Sakinaka. His company was working as service

partner of Amazon company. The informant's company had employed about 50 to 60 persons as delivery boys. The company undertook delivery of goods purchased from the Amazon's website. There was an agreement between Amazon company and the informant's company. If the order for purchase of any product was cancelled those products were sent to Amazon's office at Kanjurmarg. That company used to verify the products and used to send report to the informant's company.

4. The F.I.R. mentions that, on 17.06.2022, one Shubhashish Chaterjee, residing at Hiranandani Gardens, had ordered a mobile handset for Rs.71,999/-. The applicant was entrusted with the responsibilities to deliver that parcel. But the parcel was brought back without effecting the delivery. The applicant informed that the customer was not available at his residence. After that, on 18.06.2022 another delivery boy Satish Rajbhar was asked to deliver the parcel. Even he brought back the parcel saying that the customer was not available. The same thing was repeated on 19.06.2022 when another delivery boy Shivshankar Jaiswar was employed for that purpose. He also

returned the parcel. Thereafter the parcel was taken back to Amazon's office at Kanjurmarg on 19.06.2022.

5. On 01.07.2022, the informant's company was informed by an E-mail sent by Amazon company that when the parcel was opened and checked, it was found that it did not contain a mobile handset, but instead there was only a music Bluetooth speaker. Thus, the product was switched and loss was caused to Amazon. The informant's company made further enquiries. It is their case that the applicant had similarly misappropriated other products worth Rs.6,23,904/-. Shivshankar had done likewise for Rs.2,73,770/- and Satish Rajbhar had misappropriated the goods worth Rs.1,94,434/-. On this basis the F.I.R. was lodged.

6. Learned counsel for the applicant submitted that, when the parcel was returned undelivered, it was deposited in the store room of the informant's company and, therefore, switching of the parcel took place there. The applicant had nothing to do with the switching of the product inside the parcel. He submitted that for many months, the applicant was not even called for the purpose of

investigation and, therefore, his custodial interrogation in this backdrop is not necessary.

7. Learned APP, on instructions, submitted that the earlier investigating officer did not feel it necessary to take steps in arresting the applicant. The present investigating officer has many cases at his hand. The present investigating officer has taken the charge only one month ago and, therefore, there is no further progress in the investigation in this case.

8. I have considered these submissions and I have perused the investigation papers. The investigation papers did not contain a single statement of any of the independent witnesses from the informant's company. There is absolutely no investigation since September 2022. As far as merits of the matter is concerned, the F.I.R. itself shows that the mobile handset which was to be delivered to Mr. Chaterjee had changed the hands on three occasions when three different delivery boys were asked to deliver that parcel. After the applicant did not deliver the parcel, two more delivery boys handled that parcel. Switching could have occurred

on any of these occasions. As submitted by learned counsel for the applicant, there is reasonable possibility that the switching could have occurred in the store room of the informant's company. Therefore, at this stage, it cannot be said with certainty that the applicant alone was responsible for switching of the product. The F.I.R. mentions that, there were other instances and total misappropriated amount attributed to the present applicant was for Rs.6,23,904/-. However, the F.I.R. does not elaborate as to how this figure was arrived at and for which products, the applicant was responsible for misappropriation. The investigation carried out since September 2022 also does not throw any light on this aspect. Therefore, at this stage, there is hardly anything against the present applicant to implicate him with certainty. The investigation agency has shown no urgency whatsoever in finding the modus operandi. No other statements are recorded during the investigation.

9. Considering these circumstances, custodial interrogation of the applicant, after all these days, is not necessary. He can be directed to co-operate with the investigation.

10. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.2042 of 2022, registered at Sakinaka Police Station, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Applicant shall attend the concerned Police Station from 22/01/2024 to 24/01/2024 between 1.00 p.m. to 4.00 p.m. and shall cooperate with the investigation. In addition, the applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)