

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

ANTICIPATORY BAIL APPLICATION NO.41 OF 2024

Feroz Abdul Kadar Bhagnagri	Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. M.S. Mulla, Advocate for the Applicant.
Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL, J.
DATE : 09th JANUARY, 2024**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No.499/2023 registered at Solapur Taluka Police Station on 2.9.2023 under Sections 427, 380, 170 read with 34 of IPC.

2. The FIR is lodged by one Dattatrya Jawale. He was knowing one Mahesh Kothe. Said Kothe was having a Unit at village Gangewadi for producing coal. This Unit was having machinery worth around Rs.8 to Rs.10 Crores. The first informant was looking after the machinery since about 8 to 10 years. The Unit was not functional since for past 8 to 10 years. On 2.9.2023, he received a phone call from one Pol telling him that somebody was removing the machinery

from that Unit. The first informant went there. He met one person who gave his name as Shrikant Mane. He told the first informant that he was a police officer. He prevented the first informant from entering the premises. The informant called the said Kothe telephonically. In the meantime, two persons came outside the premises. The first informant took their photographs on his mobile phone. All these three persons tried to run away. Two of them were caught at the spot. After some time Shri Kothe arrived there. The informant and Kothe went inside and found that the accused were in the process of cutting the machine with the help of a gas-cutter and they had made about five to ten pieces of a machine. The person who gave his name as Shrikant Mane, revealed that his real name was Mehboob Mustafa Shaikh and the name of the other apprehended accused was Madhukar Mane. The police were informed and the FIR was lodged. Though the FIR was in respect of the machinery worth Rs50,000/-, the informant gave a supplementary statement mentioning that these instances of theft were

going on for quite some time and the machinery worth more than Rs.7 Crores was stolen. The investigation was carried out. During the investigation, the Applicant's name transpired. Hence, he is apprehending his arrest.

3. Learned counsel for the Applicant submitted that the Applicant is not named in the FIR. The description of the incident in the FIR is vague. There is no material against the Applicant. A co-accused Irfan who was similarly placed is released on regular bail by the Magistrate. The Applicant was not present at the spot. He is not connected with the offence. He has no antecedents. The maximum punishment is seven years. Hence, custodial interrogation of the Applicant is not necessary.

4. Learned APP opposed these submissions and produced the investigation papers before me. She submitted that there are Call Data Records showing that the Applicant was in the constant touch with Madhukar Mane, who was apprehended at the spot. The location of the Applicant's phone was also in the vicinity.

5. There is statement of one Krushna Survase, who has stated that on 1.9.2023, the present Applicant and one Irfan had purchased six gas cylinders. The cylinder which was seized by the police from the spot was purchased from his shop by these two persons. The serial number on the gas cylinder was matched and on that basis according to this witness it was the same cylinder purchased from his shop by the Applicant and his co-accused Irfan. Thus, there is sufficient incriminating material connecting the Applicant with the offence. As per the informant these instances were going on since past few months, therefore, it is necessary to find out the details of such instances.

6. Considering the nature of offence, custodial interrogation of the Applicant is necessary. Hence, no relief under Section 438 of Cr.P.C. can be granted to the Applicant. The Application is rejected.

(SARANG V. KOTWAL, J.)

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