

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

ANTICIPATORY BAIL APPLICATION NO. 130 OF 2024

Mohammed Nafees Khan	..Applicant
Versus	
The State of Maharashtra	..Respondent

Mr. Milan Desai for Applicant.
Ms. Sharmila S. Kaushik, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.653 of 2023, registered at Ghatkopar Police Station, Mumbai, on 04.08.2023, under section 420 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Milan Desai, learned counsel for the applicant and Ms. Sharmila Kaushik, learned APP for the State.

3. The F.I.R. is lodged by Vishal Agrawal. He has stated that, he was knowing one Lokesh Solanki since past six years. Lokesh introduced the informant to one Sanjay and told the

informant that Sanjay's friend was working in the customs and he used to provide gold for much lesser price. They gave phone number of one Mohan. On the next date, Mohan called the informant and told him that his associate would come at Kurla and would show him the gold. The informant went there. One person named Rajesh having mobile phone No.7600873659 came there and showed him a 100gms. 24 carat gold biscuit. He told the informant that price was Rs.4,50,000/-. The informant agreed to pay Rs.4 lakhs. The said person Rajesh called the applicant to Vidyavihar on the next day. The informant went there on 27.05.2023 at about 3.00p.m. One Rahul came there and asked the informant to show the money. The informant showed him money. In the meantime, one four wheeler came there. There were five persons in that car. One of them got down and removed that amount of Rs.4 lakhs and went towards Kurla. The informant could not chase them. He called Mohan and told about the incident. After about half an hour, Rajesh called him and told him to come near Charni Road and told him that the money would be returned. The informant and his friend Lokesh went to Charni

Road and met a courier service employee as told by Rajesh. He did not return the money. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, in this case the investigation is over and the charge-sheet is already filed. In the entire investigation there is no reference as to how the present applicant was connected with the alleged offence. He submitted that the prosecution case is that the said Rajesh was none other than the present applicant, however, there is no material to substantiate that allegation. He further submitted that, there is one phone number referred to herein above attributed to Rajesh, but there is no connection of the present applicant with the said phone number.

5. Learned APP submitted that, the co-accused has given his statement and has mentioned that said Rajesh was none other than the present applicant. She submitted that the main accused were constantly in touch with the applicant.

6. I have considered these submissions and I have perused the statement allegedly given by co-accused Mohsin.

There is no reference to the incident dated 27.05.2023 in this statement. Therefore, at this stage, the prosecution does not have material against the present applicant justifying his arrest. The F.I.R. is lodged on 08.07.2023 for the incident dated 27.05.2023. In the meantime, the informant had given one application to the police on 14.06.2023. However, in the entire investigation carried out so far, there is no material against the present applicant, as mentioned earlier. Therefore, his custodial interrogation is not necessary. But the applicant will have to co-operate with the investigation.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.653 of 2023, registered at Ghatkopar Police Station, Mumbai, 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 29/01/2024 to 31/01/2024 between 1.00p.m. to 5.00p.m. and thereafter as and when called. The applicant shall cooperate with the investigation.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)