

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

ANTICIPATORY BAIL APPLICATION NO.419 OF 2024

Kanhaiyalal Ramjeet Yadav

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Anand Harminder Singh i/b. H. S. Anand, Advocate for Applicant.
- Ms. Mahalakshmi Ganapathy, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.37/2024, dated 17/01/2024, registered with D. B. Marg Police Station, Mumbai, under sections 381 r/w 34 of the Indian Penal Code.

2. Heard Mr. Anand Harminder Singh, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The FIR is lodged by one Kamlesh Mutha. He and his family was having a business of selling computer equipment at wholesale price. They used to store their equipments in a godown at V. P Road. On 15/01/2024, when he was checking accounts, he realized that some equipment were missing. He enquired with his employees. They did not give satisfactory answers. Therefore, he realized that his equipments and goods were stolen. It is his case that the goods worth Rs.25,59,838/- were stolen between 01/04/2023 to 17/01/2024 by Sunil Yadav, Ajit Yadav and Anil Yadav. They were the informant's employees. On this basis, the FIR is lodged.

4. The prosecution case as per the investigation carried out so far is that these employees had sold the goods to one Marshal D'souza. During the pendency of the investigation, the informant approached the police and told that he had got information that one Chetan Rana was selling his goods in the market. The police called Chetan for investigation and recorded

his statement. He informed that he had purchased those goods from the present Applicant and thus the Applicant is sought to be roped in, in this offence.

5. Learned counsel for the Applicant submitted that there is no nexus of the present Applicant with the alleged offence. The arrested employees of the informant have not named him. There is nothing to connect that the goods which he had allegedly sold to Chetan, were the goods stolen from the informant's godown. There are no identification marks or identification numbers on these goods.

6. Learned APP submitted that the Applicant has not cooperated with the investigation and he is not available. However, she conceded that the arrested employees of the informant had not named the present Applicant. She accepted that there were no identification marks or number mentioned anywhere by the informant by which the articles could be connected with the stolen articles.

7. I have considered these submissions. The investigating agency had custody of the three employees. Their investigation has not revealed the Applicant's name from those employees. In fact, those employees had named one D'souza. The said D'souza had approached the police and has given his statement. But he was not arrested. The said D'souza was shown as one of the accused. His case is not different from the allegations made against the present Applicant. Even otherwise, since the employees of the informant have not named the Applicant, that is a strong factor in his favour. Moreover, as discussed above, there are no identification marks or serial numbers on the equipments mentioned by the informant.
8. Considering all these aspects, custodial interrogation of the Applicant is not necessary. However, he will have to attend the concerned police station and cooperate with the investigation. If the Applicant does not cooperate with the investigation, the Respondent State can move an application for cancellation of this order.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.37/2024, dated 17/01/2024, registered with D. B. Marg Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR 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 26/02/2024 to 28/02/2024 between 01.00 p.m. to 05.00 p.m. and thereafter as and when called and shall cooperate with the investigation.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)