

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

ANTICIPATORY BAIL APPLICATION NO. 598 OF 2024

Omkar Abasaheb Gaikwad Applicant

Versus

The State of Maharashtra Respondent

YUGANDHARA
SHARAD
PATIL

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Mr. Shardul Diwan i/b Rahul S. Kadam for the applicant.
Mr. Avinash S. Naik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 4th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 836 of 2023 registered at Chaturshrungi Police Station, on 15/11/2023 under sections 380, 454 and 457 of the Indian Penal Code.

2. Heard Mr. Diwan, learned counsel for the applicant and Mr. Naik, learned APP for the State.

3. The F.I.R. is lodged by the Applicant's wife. She has stated that she was residing on the second floor of a three storied house. The informant was conducting business of fitness centre on

the ground floor. She herself and her two children were residing on the 2nd floor. The Applicant's parents were residing on the third floor. The informant is not knowing where the Applicant is residing. The Applicant used to come to the house off and on. The allegations are that on 09/11/2023, she had gone to her mother's place at Kothrud with both her children for Diwali. She had kept her gold ornaments and cash of Rs. 52,000/- in the cupboard in the hall. She had locked the cupboard. According to her, one of the keys of the cupboard was with the Applicant. On 15/11/2023, she returned to her house at Aundh. She found that lock of the house was broken. The door of the cupboard was open and her ornaments and cash amount were missing. She suspected that the Applicant, his friend Yogesh and the Applicant's parents had committed this offence. On this allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that there is a long standing dispute between the Applicant and his wife. The Applicant's wife has lodged C.R. No. 289 of 2021 and C.R. No. 766 of 2023 at the same Chaturshrungi Police Station under sections

498A, 323 504 r/w 34 of the Indian Penal Code. She had filed one NC on 06/11/2023. She had filed proceedings under the Protection of Women Domestic Violence Act, 2005 in the year 2022. He therefore submitted that the informant is continuously lodging false complaints against the Applicant. She had lodged one NCR on 06/11/2023 and within a few days she had lodged this FIR. Therefore, it is clear that she is in the habit of making false allegations. Her falsity is clear by the fact that she had not only named the Applicant but also his friend and parents.

5. Learned APP submitted that the Applicant had made a show of breaking open the lock and he had key of the cupboard. Therefore, it was easier for him to commit this offence.

6. I have considered these submissions. From the background of the case, it appears that there is a matrimonial dispute between the informant and the Applicant. Therefore, there is a reasonable possibility that the Applicant is implicated falsely in this case. There is no further proof that such articles and the cash

were kept by the informant in that cupboard. In any case, the FIR is based on suspicion. Therefore, it would not be proper to permit the custodial interrogation of the Applicant in this background. It would be sufficient if he attends the concerned Police Station and co-operate with the investigation. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No. 836 of 2023 registered at Chaturshrungi Police Station , Pune 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 as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)