

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

ANTICIPATORY BAIL APPLICATION NO.624 OF 2024

Mohammed Sadiq Suhil Ahmed Siddiqui Applicant
versus
The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.625 OF 2024**

Jignesh Ramesh Shivale Applicant
versus
The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.626 OF 2024**

Vimalkumar Ummadmal Prajapati Applicant
versus
The State of Maharashtra Respondent

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- Mr. Veer Kankaria i/b. Bhavna B. Jain, Advocate for Applicant.
- Ms. Rajeshree V. Newton, APP for the State/Respondent.
- Mr. Vaibhav Bagade a/w Aman Kothari, Advocate for Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 06th MARCH, 2024

P.C. :

1. Both these applications are decided by this common order because they arise out of the common registered offence.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.984/2023, dated 02/12/2023,

registered with Narpoli Police Station, Thane City, under sections 381 r/w 34 of the Indian Penal Code.

3. Heard Mr. Veer Kankaria, learned counsel for the Applicant, Mr. Vaibhav Bagade, learned counsel for the Intervenor and Ms. Rajeshree V. Newton, learned APP for the State.

4. The FIR is lodged by Kunal Shaha. He was in the business of imitation jewellery. His shop was at Bhuleshwar, Mumbai. He used to import imitation jewellery from China and store in a godown at Bhiwandi. On 29/11/2023 one of the customers mentioned that the same imitation jewellery was available in another shop at Sutar Chawl, Zaveri Bazar. The informant went there and saw the imitation jewellery including the barcode on the jewellery. He realized that it was the same jewellery which the informant had imported and had kept in the godown at Bhiwandi. He made enquiries with the shop owner Kalpesh Prajapati. He told the informant that he had purchased those articles from one Sadiq i.e. the present Applicant in

Anticipatory Bail Application No.624 of 2024. The informant realized that there was theft in his godown and some articles were sold in the said shop. The informant then checked the mobile phone of one Sureshkumar who was working as a helper in the informant's shop. He saw that the Applicant Sadiq's mobile number was stored on Suresh's mobile phone. He also found that they were regularly in touch with each other. He made further enquiry with Suresh. At that time he told that he used to steal those articles from the godown at Bhiwandi with the help of the Applicant Jignesh, the Applicant Sadiq and the Applicant Vimalkumar. It was going on since January 2023 upto November 2023. At that time, according to the first informant he could verify the bills showing misappropriation of the articles worth Rs.2,60,352/-. He has given the description of the articles. On this basis, the FIR is lodged.

5. Learned counsel for the Applicants submitted that the main accused Suresh is arrested and as of today, he is released on bail. Therefore, the Applicant's custody for interrogation

purpose is not necessary. They are willing to cooperate with the investigation.

6. Learned APP opposed these submissions on the basis of investigation carried out so far. She submitted that the stolen articles are much more than mentioned in the FIR. There are statements of persons to whom those articles were sold and from whom those articles were recovered. There is statement of co-accused Suresh, which describes the modus operandi. On this basis, the learned APP opposed these submissions.

7. I have considered these submissions. The partner of the first informant has given his statement on 23/12/2023. After describing the allegations in the FIR, it was further stated that they went to the godown at Bhiwandi and carried out audit of their entire goods with reference to the bills between January 2023 to November 2023. It was found that the total stolen articles were valued at Rs.74,82,078/-. He has given details of the description of each article, its design, their quantity and the price. It is a detailed statement supported by his audit.

8. The statement of Lalit working with the first informant supported the informant's case that a customer had come to their shop on 29/11/2023 and had informed about the other shop, where the same articles were sold for much lesser price. There is a statement of Rasik Prajapati. He was the owner of the shop where these articles were sold from that shop. This witness has stated that the Applicant Sadiq used to sell those articles to him. The Applicant Sadiq had promised to provide the bills for those articles, but he had not given the details. He produced those articles taken from the Applicant Sadiq. Similar is the statement of one Sanjay Pakhija. He has purchased those articles from the Applicant Vimalkumar. He had purchased the articles worth more than Rs.11 lakhs.

9. Significantly, there is statement of the co-accused Suresh. He has described the manner in which the offence was executed. He has stated that he was working in the informant's shop as a salesman. He was aware that those articles were stored in the godown at Bhiwandi. He had kept one key of that godown with himself. He got acquainted with the Applicant

Vimal. Suresh told him about those goods stored in the godown at Bhiwandi. Thereafter all these three Applicants suggested to Suresh that he should slowly take away those articles from there and should sell them. That they should share the earnings. In January 2023 they removed 13 cartons. All the Applicants sold those imitation jewellery to some shop keepers and paid Rs.15,000/- to Suresh. This went on between January 2023 to November 2023. They removed articles on 6 to 7 occasions. Thus, the offence was committed.

10. All this shows deep involvement of the present Applicants in the entire offence. The offence was committed over a long period. Section 381 r/w 34 of IPC is applied. Independent of that also section 379 of IPC would be applicable in this case.

11. Considering the gravity of the offence and the necessity of custodial interrogation, the Applicants cannot be protected u/s 438 of Cr.P.C. The applications are therefore rejected.

(SARANG V. KOTWAL, J.)