

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

BAIL APPLICATION NO. 1770 OF 2024

Sundar Birbal Bhopa

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Tejas P. Hartalkar a/w Mehul P. Hartalkar, for the Applicant.
Ms. S. M. Yadav, APP for the Respondent-State.
Mr. M. G. Pandey, for Intervenor (Original Complainant).

**CORAM: MADHAV J. JAMDAR, J.
DATE: 07.05.2024**

P. C.

1. Heard Mr. Hartalkar , learned Counsel for the Applicant and Ms. Yadav, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:

1.	C. R. No.	364
2.	Date of registration of F.I.R.	21.09.2023
3.	Name of Police Station	Manikpur, Palghar
4.	Sections invoked	420, 406 120-B, 465, 468, 471 r/w 34 of the I.P.C., 1860
5.	Date of incident	09.08.2023
6.	Date of arrest	01.02.2024
7.	Date of filing of Charge-sheet	28.11.2023

3. Informant-Kamlesh Shantilal Jain is in the business of jewellery.
4. As per the prosecution case, the Applicant availed a loan of an

amount of Rs.37,00,000/- by making a false representation that he is keeping the gold pendant as security. In fact, out of the said fraud amount of Rs.37,00,000/-, the Applicant purchased gold ornaments for an amount of Rs.23,03,475/- from the shop of the Informant.

5. Subsequently, it was found that the Applicant has committed an offence punishable under Sections 420 and 406 r/w. 34 of the *Indian Penal Code, 1860* as the said pendant was found to be not made of gold. The total amount involved in the offence in question is Rs.60,03,475/-.

6. It is the submission of Mr. Hartalkar, learned Counsel for the Applicant that the Applicant and Informant have amicably settled the dispute and that both parties have filed a Writ Petition (St) No.10316 of 2024 seeking quashing of the said F.I.R..

7. On the other hand, Ms. Yadav, learned APP, strongly opposed the Bail Application. She submitted that the position on record clearly shows that the Applicant is involved in the commission of the offence in question.

8. Perusal of the record shows that the F.I.R. was lodged on 21.09.2023 and the Charge-sheet was filed on 28.11.2023. The present Applicant was arrested on 01.02.2024. As the Charge-sheet had already been filed, a supplementary charge-sheet was filed on 26.03.2024 after arresting the Applicant. As the investigation is completed, the Applicant can be enlarged on bail by imposing conditions.

9. Mr. Hartalkar also tenders affidavit of Informant-Kamlesh Shantilal Jain stating that the dispute between the parties has been settled.

10. In view thereof, the following order:

ORDER

(a) The Applicant - Sundar Birbal Bhopa be released on bail in connection with C. R. No.364 of 2023 registered with the Manikpur Police Station, District-Palghar on his furnishing P. R. Bond of Rs.25,000 /- with one or two local solvent sureties in the like amount.

(b) The Applicant is permitted to furnish cash bail surty in the sum of Rs.25,000/- for a period of four weeks in lieu of surety.

(c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Manikpur Police Station, District – Palghar, as and when called.

(e) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court.

(f) The Applicant shall surrender his passport, if any, to the Investigating Officer.

11. The Bail Application is disposed of accordingly.

12. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]