

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

Anticipatory Bail Application No.1400 of 2024

Archana Suryakant Bhowad
Age 34 years, Indian Inhabitant,
Occupation: Service, Residing at 42A,
Chimbai Koliwada, Chimbai Road,
Bandra West, Mumbai - 400 050

... Applicant

v/s.

1. State of Maharashtra
(Khar Police Station)

2. Aarti R. Sawant

... Respondents

Ms Racheeta Dhuru, a/w. Sautrik Kar, for the Applicant.
Mr Yogesh Y Dabke, APP, for Respondent State.
Mr Brijesh Shukla, for Respondent No.2.

Coram : R.N. Laddha, J.
Date: 14 October 2024.

P.C. :

By this application, the applicant seeks pre-arrest bail in connection with CR No.399 of 2024, registered at Khar Police Station, Mumbai, for offences punishable under Section 380 of the Indian Penal Code.

2. According to the prosecution, the informant placed a wallet containing Rs.1,35,000/- in cash, wrapped in a white

handkerchief, inside her cupboard. It is alleged that between 7 January 2024 and 26 January 2024, the applicant, who is the informant's neighbour and had access to her house key, entered the house without her knowledge and stole the cash from the cupboard. Upon discovering the theft, the informant confronted the applicant, who admitted to the theft and signed a document on 28 January 2024, promising to return the stolen money. However, the applicant failed to repay the amount, leading to the filing of the present FIR.

3. Ms Racheeta Dhuru, the learned Counsel appearing on behalf of the applicant, contends that the informant forced the applicant to commit to repaying the amount in writing and subsequently filed a complaint on 26 March 2024. The present FIR is merely a retaliatory action against the applicant's complaint. The learned Counsel emphasises the delay in filing the FIR, noting that the alleged incident took place in January 2024, but the FIR was only lodged in April 2024. Additionally, Ms Dhuru, asserting the applicant's innocence, submits that the applicant has been falsely implicated in the crime.

4. Mr Yogesh Dabke, the learned Additional Public Prosecutor representing respondent No.1/ State and Mr Brijesh Shukla, the learned Counsel appearing for respondent No.2/

the informant, jointly submit that the parties involved are neighbours. They argue that the offence is serious, as the applicant, who was entrusted with the keys to the informant's house for emergencies, entered the house in the informant's absence and stole cash from the cupboard. The learned APP further submits that the investigation is at a nascent stage and expresses concern that granting pre-arrest bail to the applicant could lead to tampering with evidence or influencing witnesses.

5. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

6. The applicant stands accused of stealing Rs.1,35,000/- in cash from the informant's house and failing to fulfil her promise to repay the stolen amount. According to the FIR, the alleged theft occurred between 7 January 2024 and 26 January 2024. To prevent the informant from initiating criminal proceedings, the applicant admitted her guilt and, on 28 January 2024, executed an affidavit with her fiancé, promising the informant to repay the stolen money in instalments. Despite repeated demands from the informant, the applicant failed to return the funds, triggering the filing of the present FIR in April 2024. The applicant claims that the informant coerced her into signing the affidavit on 28 January 2024, but she did not report

this alleged coercion to the police till 26 March 2024 without providing a reason for the delay. The applicant's conduct and the material on record, *prima facie*, suggest that she planned the theft and used the affidavit as a tactic to delay the FIR. Additionally, the investigation is at a nascent stage. In these circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

7. It is clarified that the observations made herein are *prima facie* only to determine the applicant's entitlement for anticipatory bail.

(R.N. Laddha, J.)