SMITA JOHNSON GONSALVES
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.2122 of 2024

Gopal Ram Purohit
Age : 36 years, Occ:Business,
Having ofice at 74, Mantri bldg.
Champa galli, 3rd floor, office No.2,
Kalbadevi Road, Mumbai:400 002 … Applicant

v/s.

The State of Maharashtra
(vide LT Marg police station, Mumbai) … Respondent

Mr Saumitra Salunke, i/b. Mr Pradeep Yadav, for the Applicant.
Mr Arfan Sait, APP, for Respondent State.
PSI KA Gholap, LT Marg Police Station, is present.

Coram: R.N. Laddha, J.
Date: 31 July 2024.

P.C. :

Heard Mr Saumitra Salunke, the learned Counsel for the applicant and Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/State.

2. This is an application for pre-arrest bail filed by the applicant, who is apprehending arrest in connection with CR No.554 of 2024, registered at LT Marg Police Station, Mumbai, for the offences punishable under Sections 409 and 420 of the Indian Penal Code.

3. The complainant claims that he runs a gold ornament factory; on 13.11.2021, the applicant called him, posing as Pravinbhai, owner of Shri Bhavani Gold shop, and requested him to visit the shop with seven ready-made necklaces. The complainant selected six of these necklaces, weighing a total of 217.050 grams (22 carats), and quickly packed and delivered them. The applicant was supposed to give the complainant 206.190 grams of pure gold in exchange for these six necklaces. Initially, the applicant assured the complainant that he would deliver the gold on 15.11.2021. However, after numerous requests, the applicant only provided 147.46 grams of pure gold and promised to give the remaining 59.49 grams later. When the complainant asked for the remaining gold, the applicant refused. Consequently, the complainant sought police assistance. At the police station, the complainant discovered that the applicant's real name was Gopal Ram Purohit. The applicant handed over 20 grams of pure gold to the complainant at the police station and agreed to return the remaining 39.49 grams after two days. However, the applicant has not fulfilled his promise and, as such, cheated the complainant.

4. Mr Saumitra Salunke, the learned Counsel for the applicant, contends that there has been a significant delay in lodging the FIR. The applicant did not disclose that an additional 35 grams of pure gold was handed over to the complainant on 13.05.2023, and an

acknowledgment to that effect was provided to the applicant. The remaining pure gold does not exceed 3.73 grams, which the applicant is prepared to deliver to the complainant. The transaction had no dishonest intention on the applicant's part. Furthermore, the applicant is willing to cooperate with the investigation and agrees to abide by the conditions set by this Court.

5. On the other hand, Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/ State, submits that the complainant has not signed any receipt of an acknowledgment as claimed by the applicant. The complainant persistently demands the return of the gold. According to the learned APP, the applicant's intention to deceive the complainant has been evident since the inception.

6. It is a settled position in law that the decision to grant anticipatory bail requires careful and prudent discretion by the Court, taking into account the specific circumstances of each case. While exercising this power, the Court must proceed with caution, recognising that granting protection in serious cases could potentially result in a miscarriage of justice or hinder the ongoing investigation by allowing tampering or destruction of evidence.

7. In the present case, after perusing the record, it is evident that the

receipt of the acknowledgment lacks bereft of details. The applicant is unaware of the signatory, and the receipt does not even mention the complainant's shop name. The investigation is in progress, and the property is yet to be recovered. The material on record indicates that the applicant posed as Pravinbhai and deceived the complainant. There are eyewitnesses to the incident. The custodial interrogation of the applicant would be necessary for further investigation. Considering the nature of the allegations, the conduct of the applicant/accused, and the nascent stage of the investigation, the argument against granting pre-arrest bail, as presented by the learned APP, is well founded.

8. In view of the above, the application stands rejected.

(R.N. Laddha, J.)