IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2237 OF 2024

WITH

ANTICIPATORY BAIL APPLICATION NO.2239 OF 2024

Rashminkumar Jayantilal Shethiya Shah … Applicant

Vs.

State of Maharashtra … Respondent

Mr. Mahendra N. Sandhyanshiv for Applicant in both ABAs.
Mr. R. M. Pethe, APP (through VC) for Respondent-State in both ABAs.

CORAM : MANISH PITALE, J.
DATE : AUGUST 28, 2024

P.C. :

. Heard Mr. Sandhyanshiv, learned counsel for the applicant in both the applications.

2. In these applications, the applicant is one and the same person but he is constrained to approach this Court in the context of two different FIRs in which identical allegations have been levelled against the applicant and other accused persons.

3. Both the FIRs are registered with Killa Police Station, District - Nashik Rural bearing FIR Nos.0125 and 0129 dated 28.06.2024 and 29.06.2024, for offences under Sections 406, 420, 504, 511 read with Section 34 of the Indian Penal Code, 1860 (IPC) and for offences under Sections 406, 420, 504, 506 read with Section 34 of the IPC respectively.

4. The case of the informant is that there has been a long standing relationship between the informant and the accused persons and that the informant used to take loan amounts by depositing gold jewellery and

gold items with the accused persons. Upon returning the loan amount, the accused persons used to give back the gold jewellery and items.

5. It is alleged that during the course of such transactions, while the informant returned the amounts that were taken, the gold items were not returned by the accused persons. It was claimed that such items were lying in bank locker and despite the matter being pursued by the informant, the accused persons did not make any efforts to return the gold items. Eventually, the informant was constrained to approach the jurisdictional magistrate in both the cases as the police failed to register the FIR. Pursuant to the orders of the Magistrate, the FIRs came to be registered.

6. The learned counsel for the applicant in both the applications submits that the gold items were returned, although at the moment the applicant does not appear to have any document to support the same. It is submitted that in the present case, the FIRs are obviously belated because the incident is said to have taken place some time in the year 2021, while the application before the jurisdictional magistrate is filed in the year 2024. It is submitted that the applicant is a senior citizen and he is ready to co-operate with the investigation.

7. On the other hand, the learned APP submits that there is a specific allegation against the accused persons, including the applicant, in both the FIRs and so long as there is nothing to support the contention of the applicant that the accused persons had returned the gold items, further effective investigation may require the custody of the accused persons, including the applicant.

8. This Court has perused the material on record. Undoubtedly, the allegations pertain to the year 2021 and the application before the Magistrate is filed in the year 2024. That in itself may not inure to the

benefit of the applicant, for the reason that even according to the informant, there were relations of cordiality and faith for two generations between the parties and the transactions were being undertaken in good faith. It is specifically stated that when the informant was pursuing the matter for return of gold jewellery and items, the accused persons were avoiding return of such items and they were indicating that such items were lying secured in a bank locker. It can be said that considering the long standing relations between the parties, the informant may not have immediately reached out to the police or the concerned Magistrate.

9. As regards the allegations made by the informant, there are specific statements of the informant, which do *prima facie* make out the ingredients of the offences registered against the applicant. There is no material to indicate as to when and in what manner, the gold jewellery and items kept with the accused persons, including the applicant, were returned to the informant. In such a situation, the question of recovery would arise and hence, it would not be appropriate to grant relief in the present applications, as it may have the effect of coming in the way of effective investigation by the investigating authority.

10. Hence, no case is made out for granting relief in these applications. The applications are dismissed.

(MANISH PITALE, J.)

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