

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

Anticipatory Bail Application No.2533 of 2024

Vikas Chandraprasad Sahni,
Aged 56 years, Occ.: Business,
Having address at Flat No.1301,
Mount CHS Ltd., JP Road,
Versova, Andheri (West),
Mumbai, Maharashtra - 400 061. ... Applicant
v/s.

The State of Maharashtra
At the instance of Kandivali P.S. ... Respondent

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Mr A Karim Pathan, a/w. Mr Shane Illahi Turkey, for the Applicant.
Mr Amit A Palkar, APP, for Respondent State.
API Dipak Kadbaw, Kandivali Police Station, Mumbai, is present.

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Coram : R.N. Laddha, J.
Date : 10 September 2024

P.C. :

Heard Mr A Karim Pathan, the learned Counsel, appearing on behalf of the applicant, and Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/ State.

2. By this application, the applicant seeks pre-arrest bail in connection with CR No.360 of 2024, registered at Malwani Police Station, for the offences punishable under Sections 406 read with 34 of the Indian Penal Code.

3. The complainant resides with her husband, who owns a car washing centre in Lokhandwala, Andheri (West), Mumbai. The complainant's family has close ties with the applicant/accused, Vikas Sahni. Parmeshwar Jadhav, an auto-rickshaw driver, has worked with the complainant's husband for twenty years. On 10 August 2022, the complainant and her husband visited their native place in Karnataka, leaving their flat unoccupied. They requested the applicant to retrieve cash and gold ornaments from their flat and send the cash to them through a bank account. However, the applicant suggested bringing Parmeshwar Jadhav along, which the complainant and her husband agreed to. On 15 August 2023, the applicant and Parmeshwar Jadhav retrieved the key from watchman and collected cash and gold ornaments. The applicant later informed the complainant's husband that only Rs.90,500/- was found, with no gold ornaments. The applicant assured the complainant's husband that he would look into the matter and advised him not to come. Upon returning to the flat between 15-16 September 2023, the complainant discovered that the gold ornaments were missing. The complainant thereafter informed the applicant of his intention to file a police complaint regarding the missing gold ornaments. However, the applicant threatened her, and at that time her husband was detained and arrested by the police, in Bangalore, preventing her from filing

the complaint. After the complainant's husband was released on bail, the applicant agreed to return the gold ornaments and handed over one gold pendent weighing 19.610 gms. on 7 October 2023, promising to return the remaining ornaments within three days. However, the applicant failed to fulfill his promise, did not return the remaining gold ornaments, and switched off his mobile phone.

3. Mr A Karim Pathan, the learned Counsel for the applicant, submits that the applicant is a businessman and has been falsely implicated in this crime. There was an inordinate delay in filing the FIR. The learned Counsel argues that it is highly improbable that any reasonable person, despite having relatives in Mumbai, would call the applicant to collect the keys of his house from the watchman, and enter the house. The complainant's husband has a criminal antecedents. The applicant never entered the building premises of the complainant during the alleged period. Furthermore, the police did not conduct any preliminary inquiry with the applicant before registering the FIR. The applicant is ready to cooperate with the investigation.

4. On the other hand, Mr Amit Palkar, the learned APP, contends that Call Detail Records (CDR) indicate the applicant's presence with the co-accused at the scene of the incident at the

relevant time. The applicant and the co-accused took gold ornaments weighing 199.29 gms., valued at Rs.10,83,892/-, from the complainant's house. The applicant has returned one gold ornament to the complainant's husband. The investigation is at the nascent stage, and the remaining stolen property has yet to be recovered.

5. Upon perusing the records, it appears that there are specific allegations against the applicant that he, along with co-accused, took the keys of the complainant's flat from the security's cabin, with the help of watchman, and stole gold ornaments from the flat. The statement of the watchman clearly implicates both the applicant and the co-accused in the crime. The CDRs indicate the applicant's presence at the scene of the incident with the co-accused at the relevant time. The delay appears to be explained in the FIR itself. Witnesses also confirm the applicant's presence with the co-accused. It appears from the material available on record that the applicant returned one gold ornament to the husband of the complainant and promised to return the rest within three days, but failed to do and subsequently switched off his mobile. The investigation is in progress and the stolen property has yet to be recovered. In these circumstances, this Court is not inclined its discretion in favour of the applicant. As

a result, the application stands rejected.

[R.N. Laddha, J.]