

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

Anticipatory Bail Application No. 2831 of 2024

Jash Hitesh Shah

Age 31 years,

113, Samruddhi Shopping Centre,

M. G. Road, Kandivali (West),

Mumbai – 400 067.

... Applicant

Vs.

The State of Maharashtra

through Borivali Police Station,

Borivali (West), Bombay.

... Respondent

Ms Yashika Jain i/b Ms Kalpana Trivedi, for the Applicant.

Ms Supriya Kak, APP for the Respondent – State.

PSI Vishal Zagde, Borivali Police Station, Mumbai is present.

Coram: R. N. Laddha, J.

Date: 16 October 2024.

P.C.

By this application, the applicant seeks pre-arrest bail in connection with CR No.670 of 2024, registered at Borivali Police Station, Mumbai, for offences punishable under Sections 406 and 420 of the Indian Penal Code.

2. The prosecution alleges that on 19 April 2024, the applicant approached the informant, pretending that his uncle

wanted to make jewellery similar to what the informant wore. The applicant requested to borrow a 25 grams Rudraksha gold chain, a 15 grams diamond-studded gold ring, and another 10 grams gold ring, with a total value of Rs.3,50,000/-, for a detailed examination. The informant agreed and handed over the jewellery. However, when the informant later asked for the return of the gold items, the applicant gave evasive responses and did not return them, thus misappropriating the informant's jewellery.

3. Mr Yashika Jain, the learned Counsel appearing on behalf of the applicant, contends that the applicant and the informant have had a long-standing business relationship, having known each other for several years. The applicant would resell the informant's gold articles to potential buyers and then pay the informant accordingly. The learned Counsel claims that the present FIR is an attempt to extort money from the applicant and asserts his innocence while submitting that he has been falsely implicated in the present crime.

4. Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State, argues that the offence is serious as the applicant intended to cheat the informant from the beginning and misappropriated his gold articles. The

learned APP highlights that a CCTV camera captured the exchange of the gold articles, and there are eyewitnesses to the incident. These articles, valued at Rs.3,50,000/-, are yet to be recovered. The investigation is ongoing, and the applicant's custodial interrogation is necessary. Additionally, the learned APP submits that the applicant has a criminal antecedent of a similar nature. She expresses concern that granting pre-arrest bail to the applicant may hinder the investigation.

5. Upon perusing the records, it appears that the applicant is accused of misappropriating the informant's gold items valued at Rs.3,50,000/-. The informant had lent these ornaments to the applicant under the pretence that they would be shown to the applicant's uncle, who was interested in commissioning custom made jewellery of a similar design. The applicant assured the informant that the items would be returned within two hours. A CCTV camera captured the moment when the informant entrusted gold ornaments to the applicant. However, following this exchange, the applicant evaded the informant's attempts to retrieve the jewellery and failed to return the items as promised. The material on record *prima facie* suggests the applicant's involvement in the alleged misappropriation. The gold ornaments are yet to be recovered, and the investigation is ongoing. The applicant has a criminal antecedent of a similar

nature. In these circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

6. It is clarified that the observations made herein are *prime facie* only to determine the applicant's entitlement to pre-arrest bail.

(R. N. Laddha, J.)