

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

**Anticipatory Bail Application No. 3113 of 2024**

Shabnam Begum Motilal Shaikh

Age 26 years, Occ. Housewife,

Presently residing at. Jotharan

Gobara, Hooghly,

West Bengal – 712 305.

... Applicant.

Versus

The State of Maharashtra

(Through L. T. Marg Police

Station, Mumbai)

... Respondent.

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Mr Tarun Kumar Sinha, for the applicant.

Mr Swapnil S Pednekar, APP, for the respondent/ State.

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**Coram: R.N. Laddha, J.**

**Date: 21 November 2024**

**P.C.:**

Heard Mr Tarunkumar Sinha, the learned Counsel appearing on behalf of the applicant and Mr Swapnil Pednekar, the learned Additional Public Prosecutor representing respondent/State.

2. By this application, the applicant seeks pre-arrest bail in connection with CR No.675 of 2024, registered at LT Marg Police Station, Mumbai, for offence punishable under Section

306 read with 3(5) of the Bhartiya Nyaya Sanhita, 2023.

3. It is the case of the prosecution that the informant, Shahabuddin Hajmatali Shaikh, operates a factory for polishing gold ornaments and employees individuals named Motiyar Sheth, Gulam Hussain, and Attarul Mundal. On 16.08.2024, at approximately 7:15 a.m., the informant received 25 gold Mangalsutras weighing 582 gms for polishing. Around 12:30 p.m. employee Gulam Hussain handed over the polished ornaments and left for prayers. The informant then entrusted the ornaments to the Motiyar Sheth. While polishing, Motiyar requested wax for polishing the ornaments. At the same time, the informant received a phone call with another order. At approximately 1:10 p.m., the informant placed the ornaments in a drawer and left to get the wax. By then Gulam Husain had returned and left again. When the informant came back at about 1:50 p.m., he noticed that Motiyar was no longer present in the factory. Upon asking Gulam Husain about Motiyar's whereabouts, he was informed that Motiyar had left sometime earlier. It was then discovered that the ornaments kept in the drawer were missing. When questioned, Gulam Hussain denied taking the ornaments. The informant reviewed the factory's CCTV footage and observed that Motiyar had hurriedly left the premises. According to the prosecution, Motiyar committed the

theft of 25 gold Mangalsutras, collectively weighing 582 gms. and valued at Rs.40,00,000/-. Further, the co-accused Motiyar Sheth, husband of the present applicant, was arrested in West Bengal on 22 August 2024 and brought to Mumbai under transit remand on 30 August 2024. During the interrogation, Motiyar disclosed that he had handed over the stolen ornaments, the present applicant. Acting on this statement the police searched his house in West Bengal but found that the applicant had left with her children two- three days prior. Consequently, the stolen ornaments could not be recovered. Efforts to locate the applicant have been unsuccessful as she had switched off her mobile phone.

4. The learned Counsel for the applicant submits that there is no material available on record linking the applicant to the present crime. The applicant is not named in the FIR. The applicant's name was falsely implicated in the remand application for the first time on 28 August 2024, without any supporting evidence. The prosecution's case is entirely based on suspicion. The co-accused, Motiyar Sheth, was arrested and subsequently released on bail. The applicant has no connection whatsoever with the alleged theft. The applicant's name was added to the remand report solely to pressure her husband, Motiyar. Furthermore, the applicant is willing to cooperate

with the investigation and comply with any conditions imposed by this Court.

5. On the other hand, the learned APP submits that the stolen articles have not yet been recovered. The co-accused, Motiyar, handed over the stolen gold articles to the applicant. After committing the theft the applicant's husband, Motiyar, was seen in CCTV footage hurriedly leaving the factory premises.

6. Upon perusing the records, it is evident that the applicant was neither named in the FIR nor was present at the scene of the incident. The only evidence linking the applicant to the crime is the statement from the main accused, Motiyar, who claimed to have handed over the stolen articles to the applicant. However, there is no material on record to substantiate this claim. The person who allegedly stole the articles has been arrested and subsequently released on bail. Furthermore, the investigation has been concluded. In the circumstances, this Court is inclined to allow the application. Hence, the following order:

### **ORDER**

- (i) In the event of the applicant's arrest in connection with CR No.675 of 2024,

registered at LT Marg Police Station, Mumbai, she shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station as and when required.

(iii) The applicant, herself or through any other person, shall not indulge in any activity that may tamper with the evidence or influence the witnesses.

7. The application stands disposed of accordingly.

**(R.N. Laddha, J.)**