

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

Anticipatory Bail Application No.1662 of 2024

Basudeb alias Babu Durgacharan Pakira
alias Fakira
Hindu-adult, Aged about 37 years,
R/at: Shri J Nagar, Chawl No.4,
Room No.2, Shivnagari, Suryanagar,
Maharal Gaon Kalyan, Dist.Thane
Occupation : Business Applicant.

Vs.

The State of Maharashtra
(through PI of Ulhasnagar Police
Station) Respondent.

With

Interim Application No.2576 of 2024

In

Anticipatory Bail Application No.1662 of 2024

S.K. Azizul Rahaman
Aged 34, 24/01 Jai Jhulelal,
Palace, R no 105, Ulhasnagar,
Thane – 421002. ... Intervener.

In the matter between:

Basudeb alias basu D. Pakira alias Fakira
Aged 35, Shop Address-Anmol complex,
Sonar Galli, 312 shop, Ulhasnagar-2 ... Applicant.

Vs.

The State of Maharashtra
through P.P. High Court, Mumbai Respondent.

Mr Charan Penthalia for the applicant in ABA No.1662/2024.

Mr Jayesh Bhagia for the applicant in IA No.2576/2024.

Mr CD Mali, APP for Respondent/State.
PSI DV Mali Ulhasnagar Police Station is present.

Coram : R.N.Laddha, J.
Date : 9 July 2024.

P.C. :

Heard Mr Charan Penthalia, the learned Counsel for the applicant; Mr CD Mali, the learned APP for the respondent/State; and Mr Jayesh Bhagia, the learned Counsel for the intervener/the first informant.

2. This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.469 of 2024, registered with Ulhasnagar Police Station, Mumbai, for the offences punishable under Sections 406 of the Indian Penal Code.

3. The prosecution alleges that on 15.12.2023, the informant received 300 gms of pure gold from Shakti Casting for the purpose of making jewellery. Subsequently, the informant entrusted this 300 gms of gold to the applicant on 18.12.2023, with the intention of having gold jewellery crafted at the applicant's shop. The gold artisans were present during the process. However, on 19.12.2023, when the informant went to bring back the gold jewellery, he found that the applicant had absconded, and the employees at the applicant's shop were also absent.

4. Mr Charan Penthalia, the learned Counsel for the applicant, asserts the applicant's innocence. He points out an unexplained delay in filing the FIR and highlights the absence of any documentary evidence indicating entrustment of the gold to the applicant. It is submitted that the informant filed a false complaint against the applicant due to business rivalry.

5. On the other hand, Mr CD Mali, the learned APP and Mr Jayesh Bhagia, the learned Counsel for the intervener/first informant, in unison, submit that the informant handed over 300 gms gold to the applicant, in the presence of two gold artisans. This gold was intended for crafting jewellery, and the applicant acknowledged receipt by executing a receipt. However, subsequent to receiving the gold, the applicant disappeared.

6. After reviewing the records, there appears to be material suggesting that the applicant was entrusted 300 gms of gold. The statement of the witnesses shows that they witnessed the applicant receiving the gold from the informant. Additionally, the receipt on record indicates applicant's acknowledgment of receiving gold. The investigation is at a nascent stage, and the gold has not yet been recovered. Regarding the delay in filing the FIR, the available material indicates that time was spent persuading higher police officials to take cognizance of the complaint dated 20.12.2023.

Considering all these aspects and the fact that the investigation is still in progress, the learned APP's argument against granting anticipatory bail appears justified. The custodial interrogation of the applicant would be necessary for further investigation.

7. Given the above, the application stands rejected. As a sequel, the interim application also stands disposed of.

[R. N. Laddha, J.]