

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

ANTICIPATORY BAIL APPLICATION NO.2709 OF 2024

Ganpat Jawaharlal Sharma	...Applicant
Versus	
The State Of Maharashtra	...Respondent

Adv. Ganesh Misal i/b. Vishal Kale a/w. Rohit Chavan & Sunil Dude,
Advocate for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

Mr. Bhaskar Dere, ACP traffic division PCPC present.

G. S. Dhage, PSI, Sangavi Police station PCPC present.

S. H. Kamde, PSI Hinjewadi Police PCPC present.

CORAM : RAJESH S. PATIL, J.

DATED : 5 MARCH 2025

P.C.:

1. The present Application is filed by the Applicant under Section 438 of the Code of Civil Procedure, for anticipatory bail in connection with C.R. No.0547 of 2023, dated 10 October 2023, registered with Sangavi Police Station, District Pimpri Chinchwad, under Sections 34 and 392 of the Indian Penal Code, 1860.

2. It is alleged in the F.I.R. that the complainant, Shalini Vinod Swami, aged 60 years, residing in Pune, was the victim of the said

crime. On October 18, 2023, at approximately 18:45 hours, she left her home for her regular walk. While walking from Ramkrushna Mangal Karayalaya to Narmada Garden, two unknown individuals followed her on a motorcycle. These individuals forcibly snatched her gold chain, weighing one tola, from her neck and fled away.

3. As a result, the complainant approached the Sangavi Police Station and lodged a report on the same day. Accordingly, F.I.R. No. 547 of 2023 was registered for offences punishable under Section 392, read with Section 34, of the Indian Penal Code.

4. Accused No.1-Anand Salunke, and Accused No.2-Akshay Murkute, were arrested on 19 December 2023. The present applicant received the stolen gold chain from the said accused. Consequently, the present applicant was arrested on 20 December 2023, and the said gold chain was recovered from him.

5. During the investigation following the arrest, it was revealed that the accused had formed an organized crime syndicate. It was further found that Accused No.1 was also involved in 23 other criminal cases. Additionally, it was discovered that the present applicant is a habitual receiver of stolen property. Accordingly, Section 411 of the Indian Penal Code, 1860, was added. Furthermore, after obtaining the necessary permission, Sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999, were also invoked.

6. A non-bailable offence was registered against the applicant. The applicant challenged the said non-bailable warrant before the Sessions Court by filing an Anticipatory Bail Application, which was rejected by an order dated August 29, 2024. Subsequently, the present Anticipatory Bail Application has been filed by the applicant.

7. The learned APP has raised an objection that, as per the provisions of Section 21(3) of the Maharashtra Control of Organized Crime Act, 1999, the Anticipatory Bail Application is not applicable. She further relied on two judgments to support her arguments (1) *Kishar Pandurang Balpande v. State of Maharashtra* passed in Anticipatory Bail Application No. 191 of 2024 (Nagpur Bench) (2) *Chandrakant Vishnu Sawant & Anr v. The State of Maharashtra* PASSED in Anticipatory Bail Application No. 453 of 2018 (Bombay High Court).

8. She further submitted that, even on merits, the applicant has no case, as there are nine criminal antecedents against him. Additionally, during the applicant's custody, nine articles were recovered, one of which belongs to the complainant in the present case, as she has identified her gold chain.

9. Mr. Misal, the learned Advocate for the applicant, submits that the present applicant has known Mr. Akshay Murkute for more than 12 years, as the said accused and his family members used to regularly visit

his shop. He submits that although Akshay Murkute was a rickshaw driver, his brother was involved in the construction business, AND the applicant had a long-standing acquaintance with their family. Whenever Akshay Murkute or his family members brought any ornaments as security for obtaining a loan, the applicant, believing their oral statements, would provide the required loan to them.

10. Regarding the maintainability of the present application, Applicant submits that there is no absolute bar on filing such an application.

11. He further submits that Section 411 of the Indian Penal Code is not attracted in the present proceedings, as the applicant was unaware of the criminal background of Accused Akshay Murkute. The key question in this proceedings, is whether Section 411, which pertains to dishonestly receiving stolen property, would apply or not. However, at this stage, there is no doubt that stolen property was found in the custody of the present applicant.

12. The learned APP has referred to the statement dated 17 February 2024, made by co-accused Anant Salunke alias Lohar, who has explicitly stated that the stolen articles were sold to the present applicant, Ganpat Sharma, through Akshay Murkute. Further, there are nine criminal antecedents against the present applicant.

13. During today's arguments on behalf of the applicant, it was submitted that co-accused Akshay Murkute had handed over eight ornaments, mostly in the form of *Mangalsutras* and gold chains, the total value of these ornaments was approximately ₹7,00,000, to the present applicant between August 2023 and November 2023. When the present applicant was arrested, the police recovered all eight ornaments from him. Amongst these recovered ornaments, the complainant has identified her gold chain.

14. The link for evocation of Section 21 (3) of the of the Maharashtra Control of Organized Crime Act, 1999, lies in the fact that the applicant is a habitual receiver of stolen property which prima facie indicates he is actively involved in syndicate on going organized crime network. Therefore, this leaves no doubt in my mind that Section 411 of the Indian Penal Code is attracted. Once Section 411 is applicable, in my view, Section 21(3) of the Maharashtra Control of Organized Crime Act, 1999, also comes into play which explicitly bars the grant of Anticipatory Bail in cases registered under the said Act. Additionally, the applicant has nine antecedents and is alleged as a habitual receiver of stolen properties. Moreover, the co-accused's statement further implicates that the present applicant is a part of syndicate of organized crime activities.

15. Having seen the gravity of the offences allegations, risk of

tampering the evidence and organized nature of crime, this application under Section 438 of the Criminal Procedure Code seeking pre-arrest bail has no merits. I am in agreement with the dicta of judgments of two Single Judges of this Court in *Kishor Pandurang Balpande v. State of Maharashtra* (supra) and *Chandrakant Vishnu Sawant & Anr v. The State of Maharashtra* (supra).

16. I do not find any merits in the present Anticipatory Bail Application. Hence, **the present Anticipatory Bail Application is rejected.**

(RAJESH S. PATIL, J.)