

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.644 OF 2025

Vinod Prakashchand Mehta

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Zoheb Shaikh, Advocate i/by Mr. Mohd. Qais Shakil Ahmed for Applicant.
- Mr. Rushikesh M. Pethe, APP for Respondent.
- API – Hasan Mulani, Kalachowky Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 29, 2025

P.C.:

1. Heard Mr. Shaikh, learned Advocate for Applicant and Mr. Pethe, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No.211 of 2024 registered with Kalachowky Police Station for offences punishable under Sections 409 and 420 of the Indian Penal Code, 1860.

3. Applicant is arraigned as Accused No.1 in the present crime. *Prima facie*, it is seen that First Informant had entrusted Applicant with 2 kilograms of gold in the normal course of business, in view of their existential relationship between each other whereby Applicant used to fashionised and manufacture articles from the said gold and return to

Applicant.

4. Case of prosecution is that Applicant did not revert back but *prima facie*, in the First Information Report (for short 'FIR') it is stated 530 grams of alleged gold handed over to Applicant was received by First Informant. Prosecution also proceeded against Accused Nos.2 and 3, in fact on disclosure of Applicant himself whereby Applicant forwarded 544 grams of the said gold received from First Informant to Accused No.2 and 651 grams of said gold to Accused No.3.

5. Record of the case *prima facie* shows that Accused No.3 has obtained Anticipatory Bail whereas Accused No.3 has not been arrested despite the fact that while rejecting the Bail Application of Applicant, the learned Sessions Court has categorically referred to role of Accused No.3 in the order.

6. *Prima facie*, it is seen that 1725 grams of gold which was transacted between Applicant and the First Informant has been accounted for the present. The only unaccounted part pertains to 175 grams.

7. Mr. Shaikh would submit that present FIR is lodged on 07.08.2024 and Applicant was arrested on 03.10.2024. He would submit that initially FIR was for breach of trust and Applicant having received stolen property which *prima facie*, if seen in my opinion in the aforesaid facts would not apply.

7.1. Be that as it may, learned Advocate for Applicant has drawn my attention to a companion FIR dated 29.10.2024 which has been filed with a different jurisdictional Police Station by another First Informant against present Applicant and Accused Nos.2 and 3, *inter alia*, for seeking return of 1000 grams of gold. In that particular FIR, recovery has been effected by the prosecution to extent of 2000 grams of gold from the Applicant and Accused Nos.2 and 3.

7.2. Mr. Shaikh would inform the Court that on aforesaid facts the Application of Applicant for grant of bail be considered by Court.

8. Learned APP would submit that there is an apparent breach of trust on the part of Applicant of he having received substantial amount of gold by virtue of an oral agreement between parties and he having not received the same back and hence Applicant would be disentitled to be released on bail.

9. I have considered the rival submissions and what I find from the record of the case is that both Applicants are jewellers in the Zaveri Bazaar Jewellery market. There is a long standing existential relationship between Applicant and First Informant which has fructified on several earlier occasions in the past and the present transaction is also *prima facie* one of such transaction wherein on the basis of the oral agreement between parties the gold was given for manufacture of articles.

10. When it is case of prosecution itself as prosecution has proceeded against Accused Nos.2 and 3 *qua* 1195 grams of gold and in so far as case against present Applicant is concerned, it would probably be only to the extent of Applicant requiring to return back the balance amount of gold from his possession.

11. The said balance amount of gold as observed by Court would be 175 grams. Needless to state that prosecution can prove complicity of Applicant in the crime in trial to the extent of his liability.

12. In view of my aforesaid *prima facie* observations, I am of the opinion that Applicant can be released on bail.

13. Hence, Bail Application of Applicant is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000 /- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

- (iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and
- (ix) In case of any infraction of the above conditions and /

or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

14. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

15. Bail Application No.644 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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