

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 239 OF 2025

Mustaq Ahmed Chaudhary .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. Mohammed Ahmed Shaikh, Advocate for Applicant.
 - Mr. Hitendra J. Dedhia, APP for State.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 24, 2025

P. C.:

- 1.** Mentioned out of turn at the time of rising of Court.
- 2.** Heard Mr. Shaikh, learned Advocate for Applicant and Mr. Dedhia, learned APP for State.
- 3.** Applicant - Accused No.1 is apprehending arrest in connection with C.R. No. 619 of 2024 registered with Tilak Nagar Police Station on 17.12.2024 for the offences punishable under Sections 420, 376, 323, 506 read with 34 of the Indian Penal Code, 1860.
- 4.** Briefly stated, according to the complaint, Complainant is the maternal aunt of Applicant – Accused No.1. Accused No.2 is the elder brother of Accused No.1 and he is enlarged on bail by the Sessions Court. Insofar as the complaint is concerned, it is seen that

there is blood relationship between the parties and the Complainant had on three earlier occasions entrusted gold ornaments to the Applicant for sale and told the Applicant to give the sale proceeds to her over a period of more than 4 year as stated in the FIR. The details of the gold ornaments given with respect to the sale proceeds which were required to be given back to her are all stated in the FIR. *Prima facie* reading of the FIR shows that the desired amount has not been returned back to the Complainant which is clearly evident on reading of the FIR.

5. That apart insofar as indictment under Section 376 is concerned, it is the case of Complainant that there was one incident on 30th October, 2023 on which date the Applicant - Accused No.1 had forced her and ravished her modesty when she has gone to ask him to return her money. On that date, the Applicant told her that if she wanted her money back she will get it but will have to come to a place called Shlok lodge in Chhedanagar where he will hand over the money to her. Applicant on the pretext of handing over the money to her in that lodge took her there and ravished her modesty and also clicked her photographs. This is what is stated in the FIR by Complainant. The only reason which impels me to consider this Application of the Applicant for grant of Anticipatory Bail is the abnormal delay in filing the FIR after almost 14 months after the date of incident as per the

aforementioned facts which are delineated by me. Applicant - Accused No.1 has no antecedents.

6. *Prima facie* it is seen that issue between the parties, *inter alia*, pertains to the entrustment of the gold ornaments which were given to the Applicant for sale because when the First Informant confided the above facts in Accused No.2 who is the brother of Applicant before me, it is stated by Complainant that Applicant - Accused No.1 warned her about disclosing the issues between them to anybody and threatened her. Medical examination of the Applicant has also not been done as yet which can be seen as recorded in the Sessions Court order. However, in view of the complaint which is filed the Applicant will have to deposit his mobile phone with the Investigating Officer which he undertakes to deposit by tomorrow 12:00 noon and also attend investigation.

7. In that view of the matter, Applicant is granted pre-arrest bail on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the Applicant be enlarged 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 shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iii) Applicant shall attend the Police Station initially from 27th January, 2025 to 31st January, 2025 everyday between 10:00 am to 05:00 pm and thereafter as and when called for by the Investigating Officer thereafter;
- (iv) Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

8. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. Application stands allowed in the aforesaid terms and is accordingly disposed.

[MILIND N. JADHAV, J.]