

AGK

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

ANTICIPATORY BAIL APPLICATION NO.2332 OF 2025

Vijay Laxman Kale	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Ajinkya Murumkar with Mr. Ravi Uikey for the
applicant.

Mrs. Mahalakshmi Ganapathy, APP for the respondent-
State.

Mr. Suraj Jadhav, PSI, Kharghar Police Station, is
present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 16, 2025

P.C.:

1. The applicant, apprehending arrest in connection with Crime Register No. I-135 of 2025 registered at Kharghar Police Station for offences punishable under Sections 305, 331(3), 317(2), 238, and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS), has approached this Court with the present application seeking the relief of pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

2. The prosecution case, in brief, is that on 2 April 2025 at about 3.30 p.m., the wife of the first informant, Vaibhav Nareshchandrajji Mundada, along with their son Parth, left for tuition after locking their residence. At around 6.20 p.m., when

she returned home, she noticed that the safety door and the main door of the house were broken. On entering, she found that four drawers in the living room, two cupboards in the bedroom, and four drawers therein were all broken open. The ornaments and cash kept in those places were missing. She immediately called the first informant to return home. It is alleged that a cash amount of Rs. 80,000/-, gold ornaments weighing 284 grams, diamond-studded ornaments of 95 grams, two diamond rings, silver ornaments weighing 700 grams, and two wristwatches were stolen. An FIR came to be registered against unknown persons.

3. Learned counsel appearing for the applicant submitted that the applicant was not named in the FIR. He argued that the applicant has been arraigned as an accused only on the statement of accused No. 2 recorded during investigation. He submitted that on 7 June 2025, the Investigating Officer visited the jewelry shop of the applicant and carried out a search, but no incriminating articles were recovered. Though the books of account of the applicant were taken away, nothing suspicious has been found therein. The applicant has fully cooperated with the investigation. Learned counsel further submitted that the CCTV footage of the relevant date was not available due to low storage capacity of the device, and this aspect was ignored by the Sessions Court. He therefore submitted that the applicant deserves protection under Section 482 of the BNSS.

4. On the other hand, the learned APP opposed the application. She submitted that during investigation, on the basis of the statement of a co-accused recorded under Section 23(2) of the

Bharatiya Sakshya Adhiniyam, 2023, it has come on record that a necklace weighing 3.5 tolas, being part of the stolen property, was sold to the applicant. The said necklace has not yet been recovered. According to her, when the Investigating Officer orally informed the applicant and asked him to produce the said necklace, the applicant avoided appearance. She submitted that there is a real apprehension that if anticipatory bail is granted, the applicant will tamper with evidence and dispose of the stolen property. She further submitted that though the Investigating Officer contacted the applicant on his mobile phone on 2 June 2025, 4 June 2025, and 13 June 2025, the applicant did not receive the calls nor did he respond. The applicant has also failed to produce the CCTV footage which could have assisted the investigation. According to her, the conduct of the applicant shows non-cooperation, and therefore the application for pre-arrest bail does not deserve to be entertained.

5. I have considered the submissions of both sides and perused the material placed on record. It is true that the applicant was not named in the FIR. However, subsequent investigation and the statement of co-accused recorded under Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023, reveal that a necklace weighing 3.5 tolas, being part of the stolen property, was sold to the applicant. The said necklace is yet to be recovered. The recovery of stolen property is an important part of investigation. The applicant's role is therefore not insignificant.

6. The record further shows that despite oral intimation and repeated attempts by the Investigating Officer on 2 June 2025, 4

June 2025, and 13 June 2025, the applicant did not respond to calls. This conduct shows that the applicant avoided the investigation and failed to extend necessary cooperation. The explanation offered by the applicant that nothing incriminating was found in his shop does not by itself absolve him, since the allegation against him relates to purchase and possible possession of stolen property, which is still to be recovered.

7. At this stage, when investigation is in progress and recovery of stolen property is pending, granting pre-arrest bail to the applicant would seriously hamper the investigation. There is also a reasonable apprehension that the applicant, if protected, may tamper with evidence or dispose of stolen articles. The contention that CCTV footage was not available due to storage limitation cannot tilt the balance in favour of the applicant in view of the other circumstances pointing to his involvement.

8. In these circumstances, this Court is of the opinion that the applicant has not made out a case for exercise of discretion under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The applicant's conduct and the material gathered during investigation justify denial of relief at this stage.

9. Hence, the application for pre-arrest bail stands rejected.

(AMIT BORKAR, J.)