IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 368 OF 2025

KISHOR VASANT POWALE ..... APPLICANT

VERSUS

STATE OF MAHARASHTRA ..... RESPONDENT

ALONGWITH
INTERIM APPLICATION NO. 1578 OF 2025
IN
ANTICIPATORY BAIL APPLICATION NO. 368 OF 2025

PRAVIN PARSHURAM JADHAV ..... APPLICANT/ INTERVENER

IN THE MATTER BETWEEN

KISHOR VASANT POWALE ..... APPLICANT

VERSUS

STATE OF MAHARASHTRA ..... RESPONDENT

Mr. Rahul Thakur a/w. Ms.Vidhi Nayar for the Applicant.

Ms. Pallavi N. Dabholkar, A.P.P. for the State.

Mr. Abhinandan B. Vagyani a/w. Ms.Kalpana Kanhere, Ms.Kanchan Chindarkar for the Intervener.

CORAM : RAJESH S. PATIL, J.

DATE : 25th APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 3/2025 dated 14th January, 2025 registered with Goregaon Police Station, for the offence punishable under Sections 318(4), 316(5), 336(2), 336(3), 338, 340(2) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. As per the complaint filed, an FIR has been lodged. The role of the present applicant has been mentioned in the said FIR.

On 3rd April, 2025, the following order has been passed :-

> This application is filed for pre-arrest bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 3/2025 dated 14th January, 2025 registered with Goregaon Police Station, for the offence punishable under Sections 318(4), 316(5), 336(2), 336(3), 338, 340(2) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.
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> 2. As per the complaint filed, an FIR has been lodged. The role of the present applicant has been mentioned in the said FIR.
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> 3. It is submitted on behalf of the applicant that the applicant has been arraigned as accused no.3. The applicant is a goldsmith by profession and is aged 67 years. His forefathers were also from the same profession and native of the same village i.e. Goregaon, Mangaon, District Raigad. The present applicant is a Government approved gold valuer, who was appointed as valuer for gold by the Patsanstha involved in the present proceedings. The

appointment of the present applicant as a valuer was made on 1st April, 2024. In the month of September 2024, an audit was conducted as per the procedure followed by the Patsanstha. In the said audit, it was found that certain loans were sanctioned by the Patsanstha to the borrowers, who in reality did not exist. Taking clue of the same, the bank started making enquiries, for the said purpose another goldsmith was appointed. The said newly appointed goldsmith prepared his report which stated that the value of certain gold items were not matching to the value as stated on records. So also, certain gold items were found to be fake. Based on this report, the Patsanstha filed an FIR in the month of January 2025. As per the FIR, total 133 gold loan accounts have been found fraudulent. Out of 133 gold loan accounts, only 23 accounts are from the period after 1st April, 2024 i.e. the period in which the present applicant was appointed as a goldsmith for the valuer for the Patsanstha. It is further submitted that these issues about fake and under value gold started after the new manager was appointed, who is accused no.1. The role of the present applicant is limited only to value the gold and thereafter the bank officers were supposed to keep that gold alongwith the valuation in the custody of the bank where the role of that accused no.2 (custodian) comes into play. The role of the present applicant ends as soon as he values the gold. Thereafter the said gold does not come back to him unless and until the bank wants him to re-value the same to whom the bank sanctions loan, and whether that person exit or not.

4. The family of the present applicant is in the field of goldsmith for last 45 years in the same village. Two daughters of the applicant are highly education, one being a doctor and another is architect working in London. In the whole career of the present applicant, not even a single criminal or civil matter is lodged against the present applicant. The applicant is ready to co-operate with the Investigating Officer. The custody of the present applicant is not necessary.

5. The learned A.P.P. submits that after the audit was

done, it was found that the loans were sanctioned to fictitious persons. The accused nos. 1 and 4 are arrested, they were Managers in Patsanstha. Accused no.2 is a lady and since she is pregnant, she has been given notice by the Investigating Officer to appear and attend before the Investigating Officer. Accused no.2 is a gold custodian and the cashier. She submits that the total gold which is involved in the present proceedings is worth Rs.1,25,00,000/- against which the loan of Rs.39,88,000/- was granted by the Patsanstha. She submits that the investigation is in progress. Therefore, the custody of the present applicant would be necessary. She submits that in the statement recorded, the name of the present applicant is mentioned. She submits that the custody of the present applicant is necessary in order to investigate the crime.

6. After hearing the parties, according to me at this stage it will be necessary for the bank officers to tender before this Court, what they called as "agreement between the bank and the applicant" executed every year. Since the A.P.P. has disputed the date of appointment of the applicant, according to the learned A.P.P., the present applicant is working in the bank from 6th May 2002 and not from 1st April, 2024. The applicant is a senior citizen and does not have any criminal antecedents. The applicant is a person who certifies gold and thereafter, that gold remains in the custody of the bank. After that the gold remains in the custody of the bank, at this stage I am of the *prima facie* view that if the said gold is replaced with fake gold, or the weight of the said gold has come down, which means somebody has tampered with the gold, the applicant cannot be considered to be responsible for the same. Therefore, in order to prove the guilt of the present applicant, the A.P.P. has to show some evidence that while the applicant certified the gold, the said gold was actually fake gold or lesser in weight.

7. Therefore, at this stage, according to me, till the next date of the hearing the applicant needs to be protected from being arrested.

> 8. The applicant is directed to attend the Investigating Officer of the concerned police station and meet the Investigating Officer on 9th April, 2025 and 10th April, 2025 morning between 10:00 a.m. to 1:00 p.m.
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> 9. Place this anticipatory bail application on board **21st April, 2025**. Matter to come up under the caption of '**Urgent Circulation**'.

3. Thereafter when the matter was on board on 22nd April, 2025, the advocate appearing on behalf of the bank submitted that a completely false statement was made before the Court on 3rd April, 2025, when it was stated that the present applicant was appointed as a valuer for gold by the bank on 1st April, 2024. He submitted that infact the present applicant was appointed as a valuer for gold by the bank on 12th March, 2002. He further submitted that the bank had issued a notice to the present applicant on 16th December, 2024, directing him to remain present in the branch of the bank from 19th December, 2024 to 31st December, 2024 when the bank would undertake the activity of re-valuing the mortgaged gold. However, the applicant chose not to remain present and accordingly Panchnama dated 30th December, 2024 was prepared.

4. Today, before me the submissions were made on behalf of the applicant and now on instructions, it is admitted that it was a wrong statement made on behalf of the applicant on 3rd April, 2025 and it is

a fact that the present applicant was appointed by the bank as a valuer of the gold on 12th March, 2002. Further it is submitted before me that the applicant will not be responsible once the applicant value's the gold. Since after valuation of the gold for the purpose of granting loan, the said mortgaged gold remains in the custody of the bank and the only reason for not attending the bank branch as per the notice dated 16th December, 2024 was that the applicant himself has his own goldsmith shop and during the business hours, he cannot attend the office of the bank.

5. One thing is clear in the mind that on 3rd April, 2025 when the statement was made before me, a strong case was made up by the advocate appearing for the applicant that if there was some kind of fraud going on in the bank as regards granting the loan and mortgaging the gold, the said fact was going on for number of years. Therefore, the applicant was appointed only on 1st April, 2024 as a valuer by the bank, cannot be held responsible. Based on this statement, this Court had granted protective order from being arrested to the applicant. However, now it is found that a complete false statement is made on behalf of the applicant.

6. The learned A.P.P. has also shown to me that the statements of

the applicant were earlier recorded and in the said statements, at one time, the applicant stated that he used to go to Branch in order to value the gold which was mortgaged with the bank by the customers and on the another occasion, he made a statement that the bank officials used to come to his shop with the gold when he used to value the gold for the bank. Apart from it, it is necessary to understand that the process which advocate for the bank argued before me, the valuation of the bank is that the present applicant being a valuer of the gold, alongwith two bank officials in the bank premises when he used to value the gold put up a receipt for that purpose and the gold alongwith the receipt used to be sealed. That sealed envelop was not permitted by anybody to be opened unless it is again to be valued. After the complaints were received by the bank, the bank though it appropriate that in front of the present applicant and in front of the new valuer, the entire exercise can be done to find out the truth. Accordingly a notice dated 16th December, 2024 was issued to the present applicant directing him to remain present from 19th December 2024 to 31st December, 2024 in the bank premises from 6:00 p.m. to 9:00 p.m. in order to value the gold. The present applicant chose not to attend the Branch of the bank on the scheduled date. Neither did he addressed any letter to the bank for not attending the scheduled dates. This conduct speaks voluminous against the present applicant.

7. Considering the conduct of the applicant, I am at this stage of the view that the present anticipatory bail application requires to be rejected. Hence, the present **anticipatory bail application stands rejected.**

8. In sequel, **interim application, if any, also stands disposed of.**

[RAJESH S. PATIL, J.]