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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1250 OF 2026

Ankit Devendra Shah ...Applicant
V/S.
State of Maharashtra ...Respondent

Adv. Tanmay Karmarkar a/w Adv. Kushal Mor, for the Applicant.
Adv. Ashok S. Gawai, APP for the Respondent – State.
Adv. Rusit Patel, for the Respondent No.2.
PSI - Ms. Prerana Bankar, MIDC Police Station, Brihanmumbai, is present.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 13TH OCTOBER, 2026.

P.C. :-

1. Heard learned counsel for the applicant as well as learned APP for the respondent-state and learned counsel for respondent no.2.

2. The applicant is apprehending arrest in Crime No. 364 of 2026 dated 11.04.2026, registered with MIDC Police Station, Brihanmumbai, for the offence punishable under Sections 316(4), 344 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, **"BNS"**).

3. The FIR is lodged by Mr. Jaymin Himmatlal Vora, who along with his brother is owner of ‘Romil Jewellery Company’ which is involved in the business of making golden and diamond ornaments. It is alleged that during the process of manufacturing golden ornaments, the gold bars used to be given to the manufacturing units and after supplying golden ornaments

the remaining gold used to be kept in the company. At the end of every month, the Refining Team used to collect primary and secondary gold dust and used to keep it in the custody of General Production Manager.

It is alleged that on 14.02.2023, the applicant was appointed as General Production Manager and later on he appointed Mr. Prashant Gharat as Head of Refinery Department. In November 2025, it was revealed that there was a discrepancy of 9261.06 grams of gold recovery from gold dust recovery. It was believed that the applicant alongwith Prashant Gharat have misappropriated 9261.06 grams of gold recovered from the company's gold dust, amounting to Rs. 9,32,96,918/- and cheated the company. In view of these allegations, the offence came to be registered against the two persons, including this applicant who is arraigned as accused no.1.

4. Learned counsel for the applicant submits that the offence registered against this applicant is without any substantial evidence. He submits that the applicant was working on the post of General Production Manager and holding a responsible position in the company. He submits that there is confusion about the grievance of the complainant as the FIR does not specify as to what exactly is the discrepancy and whether it is about gold or gold dust. He further submits that misappropriation of 9500 grams of gold dust would require a huge quantity of gold to be used in the manufacturing process and the same is not at all clearly stated in the allegations in the FIR and the offence is registered to make the applicant a scapegoat. He further

submits that there no criminal antecedents and the applicant has attended the police station as directed by this court by the order dated 11.06.2026, and the applicant has also surrendered his mobile phone to the investigating agency and hence he prays for confirmation of interim protection granted by this court.

In support to his submissions, learned counsel for the applicant has placed reliance on judgment of Division Bench of this Court in the matter of ***Chanda Kochhar Versus Central Bureau of Investigation*** in Writ Petition No. 378 of 2023 dated 06th February, 2024, to highlight legal position with respect to Sections 41 and 41A of Cr. P.C. Apart from this, he relied on judgment delivered by Hon'ble Supreme Court in the matter of ***Tusharbhai, Rajnikantbhai Shah Versus Kamal Dayani And Ors.*** reported at (***2025) 1 SCC 753*** and judgment in the matter of ***Santosh Versus State of Maharashtra*** in Criminal Appeal No. 1759 of 2017 dated 10.10.2017 to buttress his submissions that the accused cannot be compelled to confess to the crime during investigation. Pointing out the legal position in this regard, he submitted that the applicant has attended the police station in accordance with the interim protection order and has not avoided the investigation and therefore prayed for confirmation of interim protection.

5. Learned APP for the respondent–State and learned counsel for the respondent no.2 opposed the application and submitted that the offence is serious in nature and they prayed for rejection of the Anticipatory Bail

Application. Learned APP further submitted that there is no confusion since FIR clearly makes a mention to gold dust and thus the offence registered is regarding the gold dust. He further submits that though the applicant has attended the police station as directed by this court by order dated 11.06.2026, he has not cooperated with the investigating agency since he has not revealed the necessary details. He further submits that the mobile phone surrendered by the present applicant does not contain any data, as the same has been deleted and it will have to be retrieved. He thus submits that custody of the present applicant is required for recovery of the gold and prays for rejection of the Anticipatory Bail Application.

6. Learned counsel for the respondent no.2, i.e. the complainant also opposed the application. He submitted that this applicant alongwith Prashant Gharat had embezzeled gold dust weighing 9261.06 grams valued at Rs. 9.32 Crores approximately. He submitted that the applicant being the General Production Manager is the only person who has siphoned the gold, since he was having control over the production and reporting mechanism. He submitted that despite noticing discrepancy the applicant continued the accounting cycles without reconciling the record of gold and gold dust. He submitted that the final accountability of recovered gold lies with this applicant and he acted in collusion with co-accused and has raised false defence to blame Aruna. He submitted that the applicant has not cooperated the investigation and hence his custodial interrogation is necessary.

7. Perused the FIR and the documents placed on record and so also the case laws relied upon by the respective counsels. It has to be noted that the offence is registered against this applicant alleging acts of criminal breach of trust and misappropriation of gold of the company. The primary allegation in the FIR is that the applicant, who was working on the post of General Production Manager, has misappropriated gold of approximately 9,261.06 grams, since there is a difference of more than 9500 grams gold in the physical stock and in the dust recovery report for the month of September 2025. It is alleged in the FIR that, during the manufacturing of golden ornaments, the gold dust which was to be collected at the end of every month used to be deposited with the General Production Manager, who was entrusted with the duty to ensure that the gold dust and the converted gold is properly maintained and accounted for. As such, it becomes crucial to consider the actual allegations made in the FIR as to whether the allegation is about misappropriation of gold or gold dust, since after the gold dust is accumulated and calculated through the refinery, the same is converted into gold. On perusal of the FIR, it *prima facie* appears that there is no clarity about the actual allegations of the complainant with respect to misappropriation of gold or gold dust. This aspect becomes important in view of the fact that the allegations about misappropriation of 9.5 kg of gold dust would require a huge quantity of gold to be used in the manufacturing process and the same is not clearly stated in the allegations in

the FIR.

8. It has also to be noted that the applicant was working on the post of General Production Manager and holding a responsible position in the company. Considering the nature of business, it is not in dispute that the record of the gold and gold dust must be meticulously maintained and it must be audited. Any discrepancy cannot go unnoticed and cannot be easily manipulated. In the instant case the FIR is registered after a delay of about five months, without any explanation.

9. The applicant was served with a notice under Section 35(3) of the BNSS, and in response thereto, he has attended the police station. Apart from this, the applicant has again attended the police station in accordance with the interim protection order and there is nothing to indicate that he has misused the interim protection.

10. It is crucial to note that the grant of anticipatory bail is a discretionary remedy and in the event of arrest of a person, his reputation and self-esteem gets destroyed. As such, considering the fact that there are no criminal antecedents against this applicant, who was holding a responsible post in the applicant's company, at this stage, discretion needs to be exercised carefully. Although, learned APP has submitted that the applicant has attended the police station but has not cooperated, it has to be noted that failure to give a statement in the desired way cannot constitute non-cooperation. It is for the investigating agency to collect the material

with respect to the offence in question and the accused cannot be forced to give a statement in a certain way. The applicant has already surrendered his mobile phone and it appears that the applicant has extended necessary cooperation and his presence can be secured by directing him to join the investigation.

11. It has to be noted that the applicant was served with a notice under Section 35(3) of BNSS and pursuant thereto, the applicant has earlier attended the police station and has further expressed readiness to join the investigating agency.

12. Although, learned APP has submitted that custody is required for the purpose of recovery of gold, it has to be noted that, in absence of clear allegations in the FIR about misappropriation of gold or gold dust, at this stage, the same cannot be considered to be the dominating factor for taking custody of the applicant. Further, in view of the fact that the applicant has attended the police station on several occasions, even in accordance with the interim protection order, there is no possibility of the applicant fleeing from Courts.

13. In view of the above mentioned aspects of the instant case and after giving due consideration to all the factors to be considered for exercise of discretionary jurisdiction, I am of the considered opinion that the applicant deserves to be granted the protection of anticipatory bail.

14. Hence, I pass the following order :

: ORDER :

(i) The anticipatory bail application is allowed.

(ii) In the event of arrest of the applicant in Crime No. 364 of 2026 dated 11.04.2026, registered with MIDC Police Station, Brihanmumbai, for the offence punishable under Sections 316(4), 344 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, he be released on bail on furnishing P. R. Bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety of the like amount.

(iii) The applicant is directed to attend the investigating agency as and when called upon.

(iv) The applicant shall extend cooperation during investigation and trial.

(v) The applicant shall always inform his residential address and mobile number to the Investigating Officer and convey any change therein.

(vi) The applicant shall not influence or pressurize any of the prosecution witnesses, in any manner.

15. The Anticipatory Bail Application is allowed and disposed of.

***(PRAFULLA S. KHUBALKAR,* J.)**