

CNR No. : MHNS01-005397-2022

Order below Exh. 1 in Criminal Anticipatory Bail
Application No. 1277/2022.

1. This is an application for anticipatory bail under Section 438 of the Cr.P.C. in C.R.No. I-274/2022 registered against applicant Surendra Kamalkishor Varma at Upnagar Police Station for the offence punishable under sections 381 of the Indian Penal Code.
2. In short, the case of the prosecution is that, applicant was working in the shop of complainant which was of gold ornaments. The applicant without the consent of the complainant stole gold ornament from the shop hence the report.
3. The applicant sought pre-arrest bail on the ground that he has been falsely implicated. FIR is not supported by any proof or CCTV footage of the alleged act. As per the FIR the incident occurred on 24th September, and the FIR is lodged on 16th October therefore there is delay of 24 days. The CCTV footage reflects that one earring which was already sold by the applicant to one lady customer was kept by him in the order box as she was to purchase it on the occasion of Dasera. The Police is aware of this this fact. FIR reflects that, complainant came to know about missing ornaments on 20-08-2022 but he further alleged that on 24-09-2022 applicant committed theft by keeping the ornaments in his pocket both the statements are contradictory. None of the employees have given statement or corroborated the version of complainant. It is strange that without removing the applicant from the service and the applicant does not abscond which cast serious doubt on the incident. Hence, prayed that pre-arrest bail be granted.

4. Say was called of the Investigating Officer. He has objected this application on the count that stolen gold ornaments worth 142.110 gram is yet to be recovered, therefore they have to conduct investigation about same. Accused is not found after the register of FIR. If he is granted bail he will not co-operate in the investigation. Accused is seen in the CCTV footage. Witnesses have stated that applicant has committed the offence hence prayed that application be rejected.

5. Heard argument of Ld. Advocate for the accused and Ld. APP for the State. Much argument was made by the Advocate for the accused that CCTV footage be perused by the Court. In support of his contention he has relied upon number of citation for perusing CCTV footage. However, the investigating Officer submitted that the CCTV footage has been sent to the technique analysis branch. Hence, it will not be appropriate to call the same at the stage of bail.

6. On considering the FIR it is seen that on 20-09-2022 certain ornaments were missing from the stock. All those ornaments were in the custody of the applicant. On searching the ornaments he check the CCTV footage. He saw that on 24-09-2022 applicant was keeping ornaments in his pant pocket. He inquired to the applicant, at that time he confessed that he has stolen the ornaments and he will return the same within 3 days. Advocate for the applicant has emphasized that it is not possible for the complainant to see applicant keeping ornaments in his pant on 24-09-2022 when the ornaments was missing on 20-09-2022. It is the part of the trial to consider on which date CCTV footage reflects that applicant has stolen the ornaments. Investigating Officer has categorically said that, recovery has to be made of stolen ornaments of 142.110 Grams from the applicant. Custodial interrogation is necessary. Nothing has been brought to reflect that applicant has been falsely implicated in the crime. Thus, considering the nature of allegations, prima-facie case is not made

out by applicant for grant of pre-arrest bail. Hence, I pass the following order :-

ORDER

Application is hereby rejected.

Nashik.
Date : 20/10/2022.

Sd/-xxx
(V.S.Malkalpatte-Reddy)
Additional Sessions Judge,
Nashik.