

Rahul Soni vs The State Of Madhya Pradesh on 15 January, 2025

NEUTRAL CITATION NO. 2025:MPHC-GWL:757

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IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE VIVEK JAIN
ON THE 15th OF JANUARY, 2025
MISC. CRIMINAL CASE No. 53337 of 2024
RAHUL SONI AND OTHERS
Versus
THE STATE OF MADHYA PRADESH

Appearance:

Shri Atul Gupta, learned counsel for the applicants.

Shri Dilip Awasthi, Public Prosecutor for respondent/

ORDER

The present application has been filed under Section 482 of Bhartiya Nagrik Suraksha Sanhita Adhinyam, 2023/438 Cr.P.C. for grant of anticipatory bail to the applicants arising out of Crime No.691 of 2024 registered at Police Station Kotwali Ashoknagar (M.P.) for offences punishable under Sections 318(4) & 3(5) BNS.

2. Learned counsel for the applicants submits that the applicants are the Officers of Financial Institution namely Equitas Small Finance Bank.

3. The allegation against the present applicants is that some gold loan was extended to some persons by the said Bank and when the said debtors failed to repay the gold loan, then the gold was auctioned and it was purchased in auction by the complainant of the case. It is argued that the applicants are only Officers of the Bank, who were involved in grant of loan and auction of the gold when the loan was not repaid. They are not a NEUTRAL CITATION NO. 2025:MPHC-GWL:757 2 MCRC-53337-2024 technical person to assess the purity of gold. For assessing the purity of gold, the Bank had taken the services of co-accused namely Manish Soni, who is running a Firm known as Jyoti Jewellers at Sarafa Bazar, Ashoknagar and the said co-accused had certified the purity of gold to be 21 or 22 carats i.e. between 85 to 92%. The allegation is that when the loan was not repaid then it was auctioned in favour of the complainant, who placed a bid for gold based on the assessment of purity made by the Bank on basis of valuation report. However, after purchase of gold, the complainant detected that the actual purity of gold is not which was projected to be complainant i.e. 75% but between 34% to 41% only and in this manner the complainant has been defrauded by the Bank authorities in selling a gold having purity between 34% to 41% at much higher rates based on

erroneous purity assessment report. The counsel for the applicants submits that the applicants had only relied on the purity assessment report prepared by the co-accused person, who has already been enlarged on bail by Coordinate Bench in M.Cr.C. No.53050/2024 and nothing is required to be gained by the prosecution by securing custody of the applicants because they had only relied on purity report prepared by the co-accused person.

4. The present case depicts a regular feature plaguing the financial institutions extending gold loans in as much as the gold having lesser purity is pledged with the Bank projecting it to be having higher purity and thereafter the said gold is auctioned and then it is detected that the purity of gold is of much lesser side. In this manner either the Bank or the person purchasing the gold in auction is liable to be put to loss. The applicants are NEUTRAL CITATION NO. 2025:MPHC-GWL:757 3 MCRC-53337-2024 Officers of the Bank and it was their duty to have kept an eye in the matter because it was not an isolated case of single gold item being found to be having purity at lesser side. It was a case when the gold loan was extended to as many as three different persons and gold was auctioned to a single person who is complainant and the gold pledged by the three debtors have been found to be short in purity by a great extent.

5. So far as the co-accused i.e. gold assessor being bailed out and granted an anticipatory bail by Coordinate Bench is concerned, it is seen that in the aforesaid order only this much has been considered that the said person was not involved in auction of the gold. It was neither argued nor placed before the Court that he was the person who was the gold assessor, which is now placed before the Court and even the assessment report are placed on record and are also part of the case diary. Nothing further is required to be commented upon in the matter. However, it is always expected of the Public Prosecutor to place the entire facts before the Court at the time of hearing of the bail application.

6. The manner in which a gold having much lesser purity was pledged by the Bank projecting it to be having purity at much higher side, is a matter which requires deeper investigation and custodial interrogation of the applicants, applicants may be required in the matter.

7. At this stage, learned counsel for the applicants submitted that the applicants have been granted interim bail by this Court on 20/12/2024. Even the said order mentions that the applicants are Government Servants and on that ground this Court has extended the benefit of interim bail, however, the NEUTRAL CITATION NO. 2025:MPHC-GWL:757 4 MCRC-53337-2024 applicants are actually employees of a Private Small Finance Bank and are not Government servants.

8. Considering the aforesaid overall circumstances, this Court is not inclined to extend the benefit of anticipatory bail to the applicants. The application is rejected.

(VIVEK JAIN) JUDGE RS