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In the Sessions Court, Kolhapur, at Kolhapur

(Presided over by R. V. Utpat, Additional Sessions Judge, Kolhapur)

Anticipatory Bail Appln. No.217/2026

Swati Sagar Tambekar & Applicants-Accused.
Sagar Balwant Tambekar

Versus

The State of Maharashtra Opponent.
Through Gandhinagar P S.

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Appearance:-

Adv. Mr. S. U. Salokhe for the Applicants.
Ld. APP Shri. S. S. Tambekar, for the State

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Order below Exh. 1

1. The applicants are seeking bail in anticipation of their arrest in C. R. No. 59/2016 of Gandhinagar police station registered for the offence punishable under section 305 read with section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. The FIR is lodged by one Aishvarya Bayaji Mane stating that, she is residing at Uchgaon, Tal- Karveer, Dist- Kolhpaur with her husband. Her husband is serving as a Medical Representative whereas, she is having medical store at Hockey Stadium, Kolhapur.

Her mother was residing at Sarnobat Wadi alone. She died on 08/02/2026, therefore, the informant and her husband went for her last rites and since then they were residing there. After the last rites, the informant, her husband, her maternal sister Swati(applicant no.1) were staying at the informant's mothers house. On 14/02/2026, at about 12.00 noon, the informant and the applicant no.1 were sweeping the house. At that time, they found gold ornaments of informant's mother in bed-room including gold bangles, Mangalsutra, Ganthan, gold rings, ear rings etc. They kept those ornaments on the loft of the bed-room. On the next date i.e. 15/02/2026, at about 8.00 p.m, the applicant no.1's husband i.e. the applicant no.2 also came to the said house and started staying with them. On 19/02/2026, the last rites were over and all the guests left. Thereafter, the informant, her husband, the applicants and their two children were staying there.

3. It is further alleged that, on 23/02/2026, at about 10.30 a.m. the ornaments kept on the loft of the bed-room were taken out. Thereafter, the informant and her husband went to the State Bank Of India for keeping those ornaments in the locker, but due to some technical difficulties, they could not kept those ornaments in the bank locker and returned in the afternoon at about 3.00 p.m. Thereafter, they took out photograph of each ornament and again kept the ornaments in a purse, kept the purse in a small bag and kept the bag on the loft of the bed-room. On the next day i.e. 24/02/2026 at about 5.30 a.m, the informant's husband went to Goa and he returned on 26/02/2026. On 27/02/2026, at about 11.00 a.m, when the informant and her husband took out the purse containing ornaments, they noticed that the Ganthan was missing.

Hence they inquired with the applicants and also asked them to return the Ganthan, but the applicants gave evasive replies. Accordingly, the informant lodged the report of theft against the applicants.

4. The applicants have contended that, they are innocent and they have been falsely implicated. There are no eye witnesses and there is no iota of evidence against them. The alleged incident has taken place on 27/02/2026 and the FIR is lodged on 02/03/2026 and the delay is not explained. The applicants had no idea that on 24/02/2026, the informant and her husband had kept the ornaments on the loft of the bed-room and the FIR is lodged only on suspicion. The applicants have also contended that, their daughters are studying in 10th standard. The applicants are respectable persons in the community, having no criminal antecedents and their custodial interrogation is not required. They are permanent residents of Kolhapur and they are ready to co-operate with the investigating machinery.

5. The State has resisted the application on the grounds that, the stolen Ganthan is to be recovered and custodial interrogation is necessary, the offence is serious and the applicants went missing after the incident, therefore it is necessary to find out whether they have disposed of the muddemal.

6. The Ld. Advocate for the applicant vehemently submitted that, the informant and the applicants are relatives and the FIR is lodged on mere suspicion. He further submitted that, there is no direct or indirect evidence against the applicants. Furthermore, the

offence provides for punishment of 7 years. He further submitted that, the applicants are ready to abide by any conditions that may be imposed. He also submitted that, the applicants' daughters are studying in 10th Std and there is possibility that the arrest of the applicants may have adverse effect on their educational carrier. He has relied on rulings in **Satender Kumar Antil Vs. Central Bureau Of Investigation & Anr, 2022 LiveLw (SC) 577, Order in Bail Appln No. 4577/2024** decided by Hon'ble High Court of Delhi at New Delhi in case of **Prem Prakash Vs. State Govt. of NCT of Delhi, Vasu Sharma & Ors, Vs. UT of J & K & Anr, Bail Appln. No.176/2024** decided by Hon'ble High Court of Jammu & Kashmir & Ladakh At Jammu.

7. Per contra, the Ld. APP Shri. Tambekar vehemently submitted that, there are specific allegations of theft against the applicants, the investigation is going on and the stolen Ganthan is required to be recovered. Therefore, there is no case for anticipatory bail.

8. I have given thoughtful consideration to the submissions made on behalf of the parties.

9. As far the ruling in **Satender Antil(Supra)** is concerned, it is in respect of section 41 and 41 A of the Cr. P. C and it is held that, the Courts will have to satisfy themselves on the compliance of Section 41 and 41A of the Code. However, I am not dealing with the question whether there is compliance of the particular provisions of the BNSS. As far the ruling in **Prem Prakash (supra)** is concerned, in that case, anticipatory bail was sought in case of alleged theft of Rs. 1,10,000/- and it was dispute inter se the brothers. In those

circumstances, anticipatory bail was granted. The said ruling is not helpful in the present facts and circumstances. As far ruling in **Vasu Sharma** (supra) is concerned, it is held that, the power to grant bail is not to be exercised as if punishment before trial is being imposed. The only material considerations in such a situation are whether the accused would be readily available for trial and whether he is likely to abuse the discretion granted in his favour by tampering with the evidence. It is also held that mere gravity of offence and severity of punishment is no ground for rejection of bail application.

10. Turning to the case at hand, on perusal of the FIR, it reveals that the applicants had gone to stay at the house of the informant's mother to attend the last rites. It is also alleged that the informant and the applicant no.1 had found various gold ornaments of the informant's deceased mother in a bed-room on the loft of the bedroom. The FIR also transpires that, on 23/2/2026, the purse containing the gold ornaments was taken out and the informant and her husband had gone to deposit the ornaments in bank locker, but they could not do so. The FIR is silent regarding whether after returning from the bank, the informant and her husband kept the purse containing all the ornaments on the loft in presence of the applicants. Further more, the allegations in the FIR reveal that, the purse was kept on the loft on 23/02/2026, and the informant and her husband again checked it on 27/2/2026 when the informant's husband returned from Goa. It seems that, since they could not find the Ganthan, they suspected the applicants of theft. It also appears from the police papers that, the investigating officer has drawn spot panchanama and recorded statement of witnesses. It also appears that, the applicants had attended the police station before

registration of the crime. It has come in some of the statements that the informant and her husband had gone to Gandhinagar police station before lodging the FIR and the applicants were called at the police station. There is statement of the informant's husband to the effect that, when they disclosed that there was no option left but to lodge the FIR, the applicant no.1 stated that, she will sell her own gold and reimburse them and therefore they all concluded that, the applicants must have stolen the Ganthan. The FIR is delayed and it is based on mere suspicion. The applicants and the informant are closely related. In these circumstances, it would be in the interest of justice to grant anticipatory bail by imposing some conditions. Hence, I pass following order:

Order

1)	The application is allowed.
2)	In the event of their arrest, the applicants- accused no. 1 and 2 namely Swati Sagar Tambekar and Sagar Balwant Tambekar in C. R. No. 59/2016 of the Gandhinagar police station registered for the offence punishable under section 305 read with section 3(5) of the Bhartiya Nyaya Sanhita, 2023, be released on P. B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand only) each with one or two sureties on the following conditions:
i)	The applicants shall not tamper with the prosecution evidence and shall not pressurize the witnesses.

	ii)	The applicants shall place on record documentary proof in respect of their residence.
	iii)	The applicants shall not commit any offence similar to the offence alleged against them.
	iv)	The applicants shall mark their presence at the concerned police station on every Monday and Thursday between 10.00 a.m to 11.00 a.m, till filing of the charge-sheet or further orders.
3)		Order be communicated to the concerned police station.
4)		Since the bail application is filed online, separate physical copy of this order is not maintained. All concerned to act upon digitally signed copy of this order uploaded online.

Date : 12/3 /2026.

(R. V. Utpat)
Additional Sessions Judge,
Kolhapur.

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Mrs.S.R.Tambvekar
Name of Court	Mr. R. V. Utpat Additional Sessions Judge, Kolhapur.
Date of Dictation	12/3/2026.
Order signed by the P.O. on	13/3/2026.
Order uploaded on	13/3/2026.