

LADDA

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL BAIL APPLICATION No. 2057 of 2013.

Shri Nitin Laxman Telavane ..Applicant.

Versus

State of Maharashtra ..Respondent.

Mr S.R. Chitnis, Senior Advocate i/by Vinayak R. Patil for
the applicant.

Mr V.B. Konde Deshmukh, APP for the State.

CORAM :- A.R. JOSHI, J
Reserved on : 18.12.2013.
Pronounced on:- 20th December, 2013.

P.C. :-

1) Heard learned senior counsel for the applicant.

Also heard learned APP for the State.

2) This is an application for bail preferred by the
applicant accused No.1 for his release on bail in the
matter of offence punishable under Sections 143,
147, 148, 386, 341, 447, 427 of Indian penal Code in
C.R. No.I-59 of 2013.

3) At the outset, it must be mentioned that the

incident happened on 6th April, 2013 at 5:30 p.m. However, the FIR was lodged on 15th April, 2013 i.e. after about 9 days delay. Investigation is already over and charge-sheet is already filed on 25th September, 2013. The present applicant is arrested on 30th July, 2013 and since then he is in custody.

4) The case of the prosecution in nut-shell is that the complainant had agreed to purchase some agricultural land in the area of Murbad and on the day of incident in the evening he was going to his land in his motor car ALTO. That time his motor car was stopped by the present applicant, then driving one Scorpio jeep by obstructing the way of the ALTO car. The applicant got down from the jeep along with five to six other persons. They all threatened the complainant of dire consequences and demanded an amount of Rs.25 lacs as and by way of ransom saying that the complainant had purchased above 10 acres land at Saili village. The complainant was also given threat of dire consequences and killing and that time the present applicant told him that if the complainant refused to pay Rs. 25 lacs he would be killed as one

another person by name Bhaskar Chandne was also killed by the applicant. After giving the threats the present applicant and his associates created a terror by breaking the side window shield glass of ALTO car driven by the complainant. Said glass was broken by the present applicant by means of chopper he was then holding. Thereafter, the applicant and his associates left the place.

5) After the above incident taken place on 6th April, 2013, only on 15th April, 2013, FIR was lodged with Murbad Police. It was registered under CR No.I-59 of 2013 for the offences mentioned earlier.

6) During the arguments, learned Senior Counsel for the applicant vehemently argued that there is no document on record collected during the investigation that the complainant had already purchased agricultural property much less 10 acres land in Murbad area and as such very basis of the complaint is false. It is further submitted that though according to the investigating agency apparently there was one hut unauthorisedly constructed at the behest of the present applicant on the land allegedly purchased by

the complainant and the statements of the two persons allegedly residing in the said hut are not recorded. By pointing out this, it is submitted that it is the entire concocted story developed by the complainant. This is more so when the complaint is lodged after 9 days of the incident. It is also brought to the notice of this Court that even during the investigation there is no panchnama conducted as to the damage caused to the ALTO vehicle belonging to the complainant and as such prima facie there is nothing to accept that the said window glass of ALTO vehicle was broken by the present applicant by using a chopper. It is further submitted that though there is recovery of chopper at the instance of the present applicant on 7th August, 2013, that in itself cannot be treated as an incriminating circumstance for the reason that the said chopper was not used for causing any injury to the complainant.

7) It is also brought to the notice of this Court that though earlier bail application preferred by the present applicant along with the co-accused Sunil Jagtap was rejected by this Court vide order dated

21st September, 2013, it was opined by this Court that since the case is of serious nature even section 387 is applicable and since further investigation is pending the Court was not inclined to release the applicant on bail at this stage pending the investigation. By pointing out this, it is submitted that now the investigation is already over and charge sheet is already filed as mentioned above on 25.9.2013 and period of about three months is lapsed.

8) Counter to the above argument, learned APP for the State submitted that there are criminal antecedents against the present applicant, inasmuch as there are six cases pending against him from the years 1993 to 2012. On this learned senior counsel for the applicant stated that out of those six cases in three cases he has been acquitted. Whatever it may be the said cases are for the offences of rioting etc and one case is of the offence under section 307 of IPC which is of the year 2004. Moreover, the antecedents of an accused can be considered only when his role in the present matter is established by way of sufficient material. Considering the over all

circumstances and still considering the criminal antecedents as alleged, in the opinion of this Court a balance is required to be struck in the present matter so far as the personal liberty of the applicant and the possibility of he giving threats to the complainant party. This is required to be viewed in juxtaposition of seriousness or otherwise of the offence. In the present matter, the role given to the applicant is that of giving threat of dire consequences by showing a chopper and giving threats of killing and asking for ransom of Rs. 25 lacs but admittedly the FIR was lodged after 9 days and the ALTO car was also not seized under the panchnama in order to substantiate the say of the complainant as to breaking of the window shield of the car by the present applicant.

9) Considering the above, in the opinion of this Court, on some stringent condition the present applicant can be released on bail. Hence, the order.

ORDER.

(1) The applicant shall be released on bail in the sum of Rs.30,000/- (Rupees Thirty Thousand only) with one surety for the like amount.

(2) On availing the bail as above, the applicant shall attend the concerned MURBAD POLICE STATION twice a week i.e. on every Monday and Friday between 10:00 a.m. to 12:00 noon till conclusion of the trial.

(A.R. JOSHI, J)