

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1160 OF 2015

Santoshkumar Parasnath Sharma ... Applicant
vs.
The State of Maharashtra ... Respondent

WITH

BAIL APPLICATION NO.1163 OF 2015

Brijeshkumar Parasnath Sharma ... Applicant
vs.
The State of Maharashtra ... Respondent

WITH

BAIL APPLICATION NO.1164 OF 2015

Mukesh Narayanbhai Patel ... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. E.B. Dixit i/b. Mr. Ramesh Tripathi, for the Applicant in B.A. No. 1160 of 2015.
Mr. Shirish Gupte, Senior Advocate i/b. Mr. Ramesh Tripathi, for Applicant in B.A. No. 1163 of 2015.
Mr. Ramesh Tripathi, for Applicant in B.A. No. 1164 of 2015.
Mr. Arfan Sait, APP for Respondent – State.
Mr. Rakesh Patil (PC), Kharghar police station, Navi Mumbai present.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JULY 15, 2015

P.C.:

. The applicants/accused are facing prosecution for the offences punishable under Sections 364(A), 386, 468, 506(II) read with 34 of the Indian Penal Code in C.R. No. I-163 of 2015 registered with Kharghar police station, Navi Mumbai. One Dattaram Mhaskar has given first information report on 12th May, 2015

2. It is the case of the prosecution that all the three applicants/accused are involved in the land transaction which was previously owned by the complainant Dattaram Mhaskar. It is his case that he was also the owner of the land at Karanjade, Tal. Panvel bearing survey No. 79 admeasuring 400 sq. mts. The said land was sold by the complainant to one Harishchandra Shinde in the year 2014. It is the case of the complainant that his nephew Ajay Gaikar was working for all the three applicants/accused for sale and purchase of the lands and the applicant/accused Santoshkumar Sharma questioned this nephew Ajay Gaikar in respect of sale of the land by the complainant to Harishchandra Shinde, as they were

interested in the said land. On 6th May, 2015 the complainant and his nephew Ajay Gaikar were called by the applicant/accused Santoshkumar Sharma in his office who threatened the complainant of false implication as he was having close acquaintance with the police department. The applicants Santoshkumar Sharma and Brijeshkumar forced him to enter into M.O.U. in respect of the said land. They took photocopies of his documents and against the said transaction they gave two cheques of Rs. 50,000/- each in the name of the complainant and his sister. The complainant Dattaram Mhasker was forced to deposit the said cheques in the bank however, his sister did not deposit the cheque. The applicant/accused Santoshkumar Sharma threatened the complainant of his life, if he would approach the police. On 10th May, 2015 again he was called through his nephew Ajay Gaikar in one hotel. Therefore, he went to R.No. 213 and met the applicants/accused Mukesh Patel @ Kaka and Brijeshkumar @ Bachhan. He threatened the complainant and his nephew Ajay Gaikar to keep mum. Then, the applicants/accused kept the complainant forcibly in the said room of the hotel throughout the night and told him that until the transaction of the land is complete, he would not be allowed to go. On 11th May, 2015 at about 1.00 pm, nephew Ajay

Gaikar arrived along with his friend in the hotel and the complainant was rescued from the custody of the applicant/accused Santoshkumar Sharma. He, thereafter lodged complaint about the incident to police on 12th May, 2015. The applicants/accused Santoshkumar Sharma and Brijeshkumar Sharma were arrested on 12th May, 2015 and applicant Mukesh Patel was arrested on 17th May, 2015. Hence, these bail applications.

3. The learned senior counsel and the other counsel for the applicants/accused have submitted that the allegations made against the applicants/accused are false. Even from the contents of the first information report, it can be gathered that no force used and no kidnapping has taken place. The learned senior counsel has submitted that the incident has taken place on 6th May, 2015 when the complainant was compelled to execute M.O.U. forcibly and he was forced to deposit a cheque of Rs. 50,000/-. He submitted that thereafter he did not go to police but he deposited the cheque and it was credited in his account. The second incident has taken place on 10th May, 2015 in the room of the hotel. He submitted that in the CCTV camera of the said hotel, it is seen that the complainant was

freely moving and talking with others. It is submitted that the allegations of kidnapping are false and baseless. The applicants/accused need not be detained in prison, as there is no question of recovery of documents.

4. The learned prosecutor opposed the bail applications. He submitted that the offence committed by the applicants/accused is serious one. They have kidnapped the complainant and wrongfully restrained him from going out of the room of the hotel. He submitted that the offence is more serious because nephew Ajay Gaikar is a star witness in this case and he is missing since 15th May, 2015. A missing report is given by his brother to the police station. The police are still investigating that matter. The learned prosecutor further submits that in that missing case, the applicant/accused Santoshkumar Sharma is made an accused.

5. Perused the first information report and the other documents filed by both the parties. It appears from the record that as per the case of the complainant, he has sold the land to one Harishchandra Shinde. The transaction of the said land has taken

place earlier. The M.O.U was prepared on stamp paper of the year 2013. The case of the prosecution made against the applicants/accused by the complainant and other witnesses is accepted as it is, I do not find any reason to keep the applicants/accused in the prison. They are already spent two months inside. From the papers produced before me, it appears that the major portion of the investigation is over and nothing is to be recovered from the applicants. In the missing case of Ajay Gaikar, the applicant Santoshkumar Sharma is made an accused. His police custody can be acquired in that case. However, in this case of extortion and kidnapping, I am inclined to grant bail to the applicants/accused.

6. Hence, I grant bail as under:

- a) The applicants/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 50,000/- each with one or two solvent surety/s in the like amount;
- b) The applicants/accused shall cooperate with the investigating officer and shall attend the concerned police station once in a week on every Sunday in between 11 am to 1 pm till filing of the charge sheet.

c) The applicants/accused shall not indulge in any other criminal activity pertaining to the land in question or pressurize the complainant.

7. All the three bail applications stands disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)