

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1230 OF 2015

Amar Kasbe .Applicant

v/s.

The State of Maharashtra & anr. .Respondents

Mr.S.M.Gaglani, Advocate, for the Applicant
Ms Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 07.10.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks pre-arrest bail in connection with C.R.No.
163 of 2015 registered with the Vanrai Police
Station, Mumbai, for the alleged offences
punishable under Sections 384 r/w.34 of the
Indian Penal Code.

3. The complainant is one Mahendra Shevhale. He has stated in his complaint that he received a call on 14.05.2015 between 13.30 to 14.00 hours from his office employee, disclosing that the applicant, who belongs to the Republican Party of India had come to meet him. Pursuant thereto, he met the present applicant along with two others, in his cabin. According to the complainant, when he asked the applicant the reason for his visit to the office, he told him that he (complainant) had cheated several people by promising that he would double the money invested by them; that his party would lodge a complaint against his illegal activities; and if he did not want the applicant to lodge a complaint against him, he would have to pay a sum of Rs.10,00,000/- to him. It is alleged by the complainant that finally, after negotiation, the amount was settled for Rs.5,00,000/-. According to the complainant, he

paid a sum of Rs.25,000/- in cash to the applicant and agreed to pay a sum of Rs.25,000/- in cash at 5.00 p.m. on the same day in the evening and Rs.50,000/- in cash on the next date. According to the complainant, he handed over two cheques to the applicant, without writing the names thereon; one cheque was drawn for a sum of Rs.1,00,000/- and the second cheque for Rs.3,00,000/-. Thereafter, the complainant approached the Vanrai Police Station, Mumbai and disclosed the same to them, who laid a trap. According to the complainant, he had received a call from the applicant, stating that one Popat Sakat would come and collect the said amount of Rs.25,000/- as promised by him. When Popat visited the complainant's office to collect Rs.25,000/- as promised, the police arrested the said Popat Sakat on the spot. Accordingly, a complaint was lodged by the complainant as against the present applicant, Popat and one

another.

4. Learned counsel for the applicant submitted the applicant has been falsely implicated in the said case. He submitted that several investors had approached the applicant, he being a leader of the RPI and made a grievance to him, as against the complainant, that he was not returning the amounts invested by them. He submitted that the applicant had called the complainant and disclosed to him, that he would file a complaint against him, if he failed to pay the investors. He further submits that in cases of extortion, there can never be any cheque transactions and therefore, the allegation that the cheques were given by the complainant to the applicant are baseless.

5. Learned APP opposed the bail application. She has filed an Affidavit of one

Pramod Tatyasaheb Wagh, PSI, attached to the Vanrai Police Station, Mumbai. It appears that one Kiran Abhang was present and had witnessed the extortion by the applicant. Learned counsel for the applicant states that a perusal of the remand report shows that there are some discrepancies in the statement of Abhang and the complainant and hence considering the discrepancies, the benefit thereof ought to be given to the applicant. Learned APP submits that Popat Sakat was apprehended red-handed in the office of the complainant, pursuant to which the FIR was lodged with the Vanrai Police Station.

6. Perused the papers. The complainant had informed the police soon after the extortion was made by the applicant. The CDR shows that the applicant had called the complainant, pursuant to which Popat went to collect Rs.25,000/- from the complainant. The police arrested Popat from

the office of the complainant. Merely because, the police have not witnessed the amount being exchanged between the complainant and Popat does not mean that the incident did not take place. There is an eye witness Abhang who was present.

7. The allegations as against the applicant are serious. There are statement of witnesses and the CDR record in support of the same. Apart from the same, the applicant is a habitual offender, inasmuch as, there are three cases registered against him which are; (i) C.R.No.80/2014 registered with Malabar Hill Police Station u/s. 188 of I.P.C., (ii) C.R.No.354/2014 registered with the Dahisar Police Station u/s.354, 323, 504, 392, 34 of I.P.C. & (iii) C.R.No.355/2014 registered with Dahisar Police Station u/s.143 to 149, 353, 427, 504, 506 I.P.C.. Considering the aforesaid, the applicant is not entitled to the discretionary

relief under Section 438 of the Code of Criminal Procedure.

8. Accordingly, the Application stands rejected.

9. If an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in the said order.

(REVATI MOHITE DERE, J.)