

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

ANTICIPATORY BAIL APPLICATION NO.161 OF 2016

Jamir Chotu Sayyed ...Applicant
Versus

The State of Maharashtra ...Respondent

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Mr. M.B. Zanwar with Mr. Priyal G. Sarda for the Applicant.
Mr. Y.M. Nakhwa, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 28th JANUARY, 2016.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicant apprehending his arrest in Crime No.11 of 2016 registered at Kondhva Police Station, District-Pune, for offences punishable under sections 143, 323, 387, 504 and 506 (I) r/w sections 149 and 34 of the IPC.

2. The accusations against the Applicant are that on 2.1.2016 at about 9.30 a.m. he alongwith the other co-accused went near the house of the complainant Shri Michel Jain and demanded Rs.30 lakhs by putting the Applicant to fear of death. It is further alleged that the Applicant and the other co-accused had abused and assaulted the complainant and his father. Pursuant to the complaint lodged by the

said complainant, aforestated crime came to be registered against the Applicant. Apprehending his arrest the Applicant had filed an anticipatory bail application before the Sessions Court, Pune. The Additional Sessions Judge, Pune, vide order dated 18.1.2016 rejected the said application. Hence, the present application.

3. Mr. Zanwar, the learned counsel for the Applicant has submitted that the FIR does not prima facie disclose the essential ingredient of section 387 of the IPC. He has further submitted that there is delay in lodging the complaint. He has also stated that the Applicant as well as the father of the complainant were co-accused in another crime. He has submitted that the complainant has filed a false complaint on the allegations that the Applicant was involved in compelling his father to purchase the property, which sale-deed was subsequently found forged and fabricated.

4. Mr. Nakhwa, the learned APP has submitted that the FIR clearly reveals that the Applicant herein had accompanied the co-accused, Azhar, who had demanded Rs.30,00,000/- from the complainant. He has further submitted that the Applicant is involved in a serious offence and his presence is required for custodial interrogation.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The FIR prima facie indicates that the father of the complainant, present Applicant and one Sachin Sharma had purchased one property at the instance of one Azhar Shaikh. Father of the complainant had paid the entire sale consideration in respect of the said transaction. Subsequently an offence being C.R. No.422 of 2015 was registered against said Azhar, father of the complainant and seven others by the original owner of the property, Mr. Vimal Reddy, alleging that said Azhar had transferred his land on the basis of forged and fabricated sale deed. The FIR prima facie reveals that on 31.12.2015 said Azhar had phoned the complainant on his cell phone and demanded Rs.60 lakhs. The FIR further indicates that thereafter on 1.1.2016 the co-accused Azhar demanded Rs.30 lakhs. On 2.1.2016 the Applicant and the said Azhar had gone near the residence of the complainant and called him out and told him to give Rs.30 lakhs. It is to be noted that complaint in respect of the incidents dated 31.12.2015 as well as 1.1.2016 and 2.1.2016 was lodged only on 6.1.2016. Furthermore, the FIR does not prima facie indicate that the Applicant herein had demanded any money or that

the complainant had paid money either to the Applicant or to the other co-accused. Considering the nature of the allegations levelled against the Applicant, in my considered view this is not a fit case for custodial interrogation. The Applicant is otherwise a permanent resident of Kondhva, District-Pune and hence, there are no chances of his absconding or thwarting the course of justice.

6. Under the circumstances, the application for anticipatory bail is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.11 of 2016 registered at Kondhva Police Station, District-Pune, the Applicant shall be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety to the like amount to the satisfaction of the learned Judicial Magistrate, First Class, Cantonment, Pune.
- (ii) The Applicant shall report to the Investigating Officer for four days from 10.00 a.m. to 1.00 p.m. from the date of receipt of the order and further as and when required by the Investigating Officer for the purpose of interrogation.

- (iii) The Applicant shall not interfere with the complainant or any other witnesses.
- (iv) The Applicant shall not leave Pune-District without prior permission of the J.M.F.C., Cantonment, Pune, till filing of the charge-sheet.

(ANUJA PRABHUDESSAI, J.)