IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.569 OF 2016

Prashant Anandray Laxmeshwar .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.A.H.H.Ponda with Mr.Shailesh Kharat, Advocate for the applicant.
Mr.H.J.Dedhia, APP for the Respondent State.

WITH

CRIMINAL BAIL APPLICATION NO.559 OF 2016

Niranjan @ Bobby Jhangad Singh .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Rajendra Rathod i/b O.A. Siddique, Advocate for the applicant.
Mr.S.H.Yadav, APP for the Respondent State.

CORAM : P.N. DESHMUKH, J.

DATED : 14th JULY 2016

P.C. :

1 Both these applications arise out of Crime No.I-366 of 2015 registered on 30th October 2015 by Versova Police Station, Mumbai for the offences punishable under Sections 364(A), 386, 395, 323, r/w Section 120B of the IPC.

2 For the sake of convenience, both these applications since are arising out of the same crime, are considered and decided by this common order.

3 From the FIR, facts as revealed can be stated as under:

It appears that applicants had arrange for loan of Rs.Six Crore to complainant's company from a firm from New Delhi for producing a film sometime in February 2015. Complainant along with one Ranjitsingh Negi had established the said production Company styled as "***Fourth Dimension Entertainment and Media Pvt.Ltd*"**. Co-accused Sarvjeet Singh was introduced to the original complainant by one Sandeep Shukla some time in April 2015. Both of them entered into an agreement for finance for production of a film from Hongkong, and as per the said agreement it was decided that original complainant's Company i.e. "***Fourth Dimension Entertainment and Media Pvt.Ltd***" would take money from said finance Company, and shall pay to M/s.Namhom Company which was appointed as per agreement as the line producer. Accordingly, some amount to the extent of Rs.25 Crore was transferred by said

Finance Company to the Company of co-accused Sarvjeet Singh, who, in turn transferred the said amount to the Hongkong based Companies. As per the agreement, entire shooting of the film was decided to be held in India. However, after sending said money to Hongkong, no steps were taken to start with the production of film by Sarvjeet Singh and Sandeep Shukla, and in that event, complainant decided not to transfer any further funds to them. In the mean time, certain amount to the extent of Rs.Three Crore were transferred by a firm ***Deltec Company*** to "***Fourth Dimension Entertainment and Media Pvt.Ltd***" established by complainant along with Ranjigsingh Negi, which amount, was however, refused to be return back by complainant though it was demanded by co-accused Sarvjeet Singh, and on instructions of Sandeep Shukla, complainant transferred amount of Rs.98,96,997/- to HDFC Bank and Rs.97 lakhs and Rs.96 lakhs to Canara Bank.

4 In the background of above transactions, it appears that on 21st October 2015, when complainant was in his office, three persons arrived in the evening, introducing themselves as police who were followed by applicant and three others, and forcibly obtained complainant's signatures and thumb impression on blank papers and snatched Rs.25,000/- in cash, mobile and his

wrist watch, and took Negi along with complainant who was present in the office of complainant to Ramlila Maidan at Versova in an auto-rickshaw, where it is found that co-accused – Dayanand Taral, who is a Police Officer and is stated to be absconding directed complainant to act as per instructions given by Sarvjeet Singh. It also appears that complainant on reaching back to the office found cash of Rs.50,000/- missing from his briefcase.

5 On 28th October 2015 at about 8.30 pm, complainant along with two of his friends Kunal and Prakash visited office of Sarvjeet Singh where complainant's signatures were taken by the applicants and other co-accused present there, and were released after 10.30 p.m. It is the case of the prosecution that out of fear, complainant instead of visiting the police station, had visited office of Joint Commissioner of Police on 29th October 2015 and lodged his report with reference to both the incidents dated 21st October 2015 and 28th October 2015, and on the basis of which offence, as numbered above, came to be registered.

6 Learned counsel for the applicant, in the background of above stated facts, has contended that complainant had not reported about the incident dated 21st October 2015 nor of 28th October 2015 till 29th October 2015 to the concerned police, but

had directly approached the Office of Joint Commissioner and after due deliberation, a false FIR came to be lodged implicating the applicants. It is also contended that applicants on being arrested were in police custody and were interrogated. Admittedly, charge-sheet is filed long before and as such, there is no purpose in keeping the applicants behind the bar, pending trial.

7 Learned counsel for the applicants has also made a statement at bar that three co-accused involved in the present crime are already released on bail by the learned Sessions Court while one accused is stated to be absconding.

8 I have perused the documents as well as the impugned order.

9 On perusal of same, it is material to note that though it is the case of prosecution that on 28th October 2015, complainant along with two of his friends i.e. Kunal and Prakash has visited office of co-accused Sarvjeet Singh where complainant's further signatures are stated to be obtained by the applicants and co-accused present there. Neither of these two persons were admittedly put as identifying witnesses in the Test Identification Parade held on three occasions while complainant Chetan Parekh

along with one Negi and Navale though appears to have identified both the applicants, from their statements, no role appears to have been attributed to these applicants, except for establishing their presence.

10 Having considering the facts, as aforesaid, there appears to be no major role established by prosecution involving applicants either in kidnapping or for extortion of money or even in that case, for forcibly obtaining signature of original complainant on blank documents or on stamp papers. Though, according to the learned APP, certain documents are recovered from applicant – Niranjan Singh and one vehicle Fortuner which stands registered in the name of co-accused came to be seized at his instance from the house of co-accused Sarvjeet Singh. The only role establishing involvement of this vehicle is about use of said vehicle by the applicant for proceeding to office of Sarvjeet.

11 The learned Sessions Judge while granting bail to co-accused Sarvjeet Singh has considered fact of filing of charge-sheet, and has also considered the fact of co-accused entering into Memorandum of Understanding between co-accused and complainant which document also establish that due to non-fulfillment of transaction, the production of film had suffered. It is

further noted that because of the dispute regarding payment of money, incident of kidnapping and of obtaining of signatures on blank papers etc, has been alleged against the co-accused and applicants.

12 In that view of the matter and since charge-sheet is filed, there is no purpose in keeping the applicant behind the bars, pending trial. In fact, learned counsel for the applicant had also pointed out that one of the grounds which weighed the learned Sessions Court while rejecting the application are submissions advanced on behalf o the said applicant which apparently, are erroneous to the effect that applicant is resident of Gurgaon, Haryana State. Though applicant Prashant is permanent resident of Mumbai at the address as mentioned in the title of the application.

13 Having considering facts as aforesaid, both the applications are liable to be allowed as per order below.

O R D E R

(i) Applicants shall be released on bail in Crime No.I-366 of 2015 registered by Versova Police Station on their executing P.R bond in the sum of Rs.25,000/- with one surety each in like amount.

(ii) Applicant shall attend Versova Police Station on first day of each month, pending trial and shall produce proof of their residence and in the event of change of their residence, shall submit new address to the Investigating Officer.

(iii) Applicants shall not tamper with the prosecution witnesses, nor shall leave the country without permission of the trial Court.

(P.N. DESHMUKH, J)