

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1319 OF 2015

1) Shri Shaikh Abdul Gani Yasin
2) Shri Asif Abdul Gani Shaikh ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.Y.M. Choudhary a/w Ajay Basutkar for the Applicants
Ms.Rutuja Ambekar, APP, for Respondent – State
Mr.Sandesh Patil for Intervener
Mr.S.B. Tawde, PI, Dahisar Police Station – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 18, 2016**

P.C.:

1. This is an application for pre-arrest bail as the applicants-accused are facing charges for the offences punishable under sections 387, 506(2) r/w 34 of the Indian Penal Code registered at C.R. No.359 of 2015 at the instance of one Ramesh Kumar Bhikala Thakur on 5.8.2015 with the Dahisar police station. It is the case of the complainant that he is running a shop in the property at Dahisar. Civil cases in respect of the entire property are pending in the Civil Court at Dindoshi. One Nanji Savla has filed a civil suit against the applicants-accused and he has obtained stay against the applicants-accused in that matter. Thereafter, he also filed a suit No.1789 of 2009 in Dindoshi Court and summons are issued against

the applicants-accused. It is the case of the prosecution that the applicants-accused knew that the complainant is very close to Nanjibai Savla and applicant-accused No.1 issued power of attorney in favour of the complainant to deal with civil matters. Therefore, on 2.5.2015, when the applicant-accused No.1 was proceeding near his shop at around 4.15 pm, the applicant-accused No.1 demanded Rs.15 crores and threatened him if he failed to pay, he would face dire consequences. Thereafter, the offence was registered.

2. The learned Counsel for the applicants has submitted that the incident, as per the case of the prosecution, has taken place on 2.5.2015. However, the offence is registered on 5.8.2015. The complaint was given on 23.6.2015 i.e., nearly 45 days after the incident. He further submitted that the applicants-accused have also filed the civil suit in respect of the property and there are many litigations pending between the applicants-accused and the original landlord and, therefore, they are falsely implicated in these cases. He further submitted that on 14.6.2015, one non-cognisable complaint was registered with the Dahisar police station that the incident has taken place on 14.6.2015. However, in the said non-cognisable complaint, there is no whisper in respect of the incident and threat and extortion which has taken place on 2.5.2015. He submitted that the applicant-accused No.1 is 74 years old. The applicants-accused are on interim bail and are ready to cooperate.

3. Learned Prosecutor so also the learned Counsel for the complainant have opposed the application. The learned Prosecutor relied on the statement of two persons, who have witnessed the incident of threat and demand of money. It is further submitted by the learned Counsel for the complainant that one case at C.R. No.583 of 2015 for the offence of outraging the modesty of woman is registered against the applicants-accused. The learned Prosecutor also submitted that earlier there was one case bearing No.253 of 1993 under section 323 of the Indian Penal Code.

4. Heard. Perused the statements of the relevant witnesses and also the FIR and other papers. Considered the submissions. It appears that there is a property dispute between the parties. The applicants-accused are attending the police station since the time they have been granted interim pre-arrest bail. In the circumstances, I am of the view custodial interrogation of the applicants-accused is not required. Accordingly, I confirm the interim pre-arrest bail granted on 3.9.2015 with the following modifications:

- i) The applicants-accused shall attend the concerned police station on 3 Tuesdays i.e., 19th April, 26th April and 3rd May, 2016 between 6pm to 7pm and cooperate with the Investigating Office;

ii) The applicants-accused shall not threaten or pressurise the complainant or witnesses;

iii) The applicants-accused shall not indulge into any criminal activity while on bail.

5. Anticipatory Bail Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)