

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.497 OF 2015**

Jeetendra Manilal Panchal Applicant

Vs.

The State of Maharashtra Respondent

Ms. Mallika A. Ingale, Advocate for the Applicant.
Ms. Anamika Malhotra, A.P.P. for the respondent- State.

Coram : Smt. R.P. SondurBaldota, J.

Date : 15th February, 2017.

P.C.

1 Admit.

2 By consent of the parties, the application is taken up for final hearing. Heard the advocates.

3 The applicant is accused no. 4 in CC No. 686/PW/2007 arising out of F.I.R. No.10 of 2017, registered with Anti Extortion Cell, DCB, C.I.D., Mumbai for the offences punishable under Sections 387, 34, 201, 455, 457, 458, 471 and 420 Indian Penal Code, pending in the Court of Metropolitan Magistrate, 37th Court, Esplanade, Mumbai. The brief facts of the prosecution case are that from 26th February, 2007 at about

3.00 am. to 13th February, 2007, the complainant and his wife received several phone calls from Phone No. 997490454 and 9967878751 from unknown person demanding ransom amount of Rs.2.00 Crores, which was ultimately reduced to Rs.1.5 Crore with a threat to eliminate them if the amount was not paid at the place and time mentioned by them. The police set a trap on 13th February, 2007, when the complainant received a phone call from the unknown person. The same was recorded and the complaint vide F.I.R. No.41 of 2007 was filed with Gamdevi Police Station. It was then transferred to Anti Extortion Cell, DCB, CID, Mumbai vide C.R. No. 10 of 2007 for the offence punishable under Section 387 Indian Penal Code. On 14th February, 2007, after laying a trap, police arrested accused Salim Ali Mohammed Khan and seized two mobile phones from him. Two days thereafter i.e. on 16th February, 2007, the police arrested accused Irfan Shaikh and Ravindra Mahajan and seized mobile phone found with them. On enquiry, the police found that accused Salim had obtained SIM cards on forged documents and on the basis of that, they arrested the applicant herein on 25th February, 2007. The applicant thus has been arrayed as an accused for allegedly abetting Salim and Irfan to obtain SIM-cards on forged documents to enable them to use said SIM card to contact the victim and demand ransom by putting them under the fear of death. After completion of the investigation, the police filed charge-sheet and subsequently charges have been framed against all the four accused including

the applicant for the offences punishable under Sections 387 , 34, 201, 455, 457, 458, 471 and 420 Indian Penal Code.

3 Ms. Ingale, the learned advocate for the applicant points out that, there is absolutely no material whatsoever on record against the applicant herein, despite which he is arrayed as an accused in the alleged offence. She submits that the only reason for arraying the applicant in the offence is that during the course of investigation, the applicant is found to have sold 1697 SIM cards to different persons on the basis of bogus documents produced by the purchasers before him. Undisputedly, the SIM cards in respect of two mobile numbers i.e. 997490454 and 9967878751 have not been sold by the applicant. This becomes clear from the final report submitted by the police. The only material found against the applicant in the final report is in its last paragraph, in which it is alleged that the applicant has sold as many as 1697 SIM cards of Airtel Company, on the basis of bogus documents and thereby cheated the Company. Even if this act on the part of the applicant is said to constitute the offence, it was necessary for police to file an independent F.I.R. against him and investigate the same. Merely because the police had chanced upon this information during the investigation into the offence on the part of the other accused persons, the applicant herein could not have been arrayed in that offence. Apart from the last paragraph mentioned in the final report, the prosecution has not been able

to show any other material whatsoever against the applicant to connect him to the offences in C.C. No. 686/PW/2007. Hence, the application is allowed in terms of prayer clause (b).

(Smt. R.P. SondurBaldota, J.)