

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

CRIMINAL BAIL APPLICATION NO.2071 OF 2016

Talha Bilal Malim	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.2087 OF 2016**

Asif Abdul Wahab Khan	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Pawan Mali i/b. Mr. Prashant S. Thombre for the applicant in BA/2071/2016.

Mr. Amin Solkar for the applicant in BA.2087/2016.

Mr. R. M. Pethe, APP for the State in BA/2071/2016.

Ms. J. S. Lohokare, APP for the State in BA/2087/2016.

Mr. Lad, PSI, Byculla Police Station.

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CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 10th FEBRUARY, 2017.

P.C. :

. Heard. These are the applications under section 439 of Cr. P.C. The applicants herein are chargesheeted in prima facie in Crime No. 148 of 2016 registered at Byculla Police Station for offences punishable under sections 364(a), 385, 389, 342, 170, 120B, 506, read with section 34 of IPC.

2. It is the case of the prosecution that the complainant Juzer Mustansir Sangotwala lodged a report in the police station on 24 May

2011 against i.e happens to be the present applicants and one Talha Qureshi. According to the complainant, he had purchased Honda City car from one Talha Rafiq Qureshi. He had met with an accident to the same car. He had paid Rs.20,000/- to by way of damages. That on 21st May 2016, Talha Rafiq Qureshi had informed the complaint that on 22nd May, 2016 he was come Hot Spot Shop at Mazgaon at about 4.30 pm. The present applicants had met the complainant they had forced themselves in the car. They had asked the complainant to take the car to Ballard Pier petrol pump. When they reached the Ballard Pier petrol pump. Talha Malim alighted from the car and made a phone call to someone. Soon thereafter, black colour Xylo had come to the spot. One of the person alighted from the car. The person alighted from the car informed the complainant that he is a CBI police officer. The said person started assaulting the complainant and forcibly pulled out the complainant and the applicants from their car and pushed them in the Xylo Car. Talha Malim was also asked to board the car. Thereafter, they had taken away the keys of the car of the complainant. They were taken to Chembur. Then they went to Bhakti Park. The policed had informed the complainant that he is involved in trade of cocaine and therefore he should give Rs.10 Lakhs to the police. At that stage, Talha Rafiq Qureshi had reached the spot. At the request, Talha Malim had informed him that they had been apprehended by the police. Talha Rafiq Qureshi had allegedly given Rs. 10 Lakhs to the police and thereafter they all released. Talha Rafiq Qureshi had taken the police alongwith him and the applicant Asif was with the complainant. Soon thereafter, Talha Rafiq Qureshi and Talha Malim had brought a plastic bag alongwith them and posed as they had brought Rs.10 Lakhs to give to the police. The police had then left. They all reached the car of the complainant. It is alleged that on 23rd May,

2016, the complainant had informed about the said incident to his father. Talha Rafiq Qureshi was demand Rs. 10 Lakhs from the father of the complainant on the ground that he had given a sum of Rs.10 Lakhs to the police.

3. The learned Counsel for the applicant submits that in fact the member of the accused would be Talha Rafiq Qureshi and who had posed as police officers. According to the learned Counsel, the applicants happens to be the friends of the complainant and they had no knowledge about incident. It is submitted that they had innocently asked the complainant to go Demelo Road.

4. On 8th February, 2017, in the course of hearing of this application, the advocate Mr. Ajay Kumar Singh had informed the advocate representing the present applicant that Talha Rafiq Qureshi has filed application before the Sessions Court under Section 439 of the Cr. P. C. and that the complainant has filed an affidavit in the said proceedings indicating his no objection to the grant of Bail in favour of Talha Rafiq Qureshi. It is pertinent to note that after asking for sometime the accused Talha Rafiq Qureshi had withdrawn the application from this court on 4th January, 2017. The court had therefore issued notice to the original complainant.

5. The complainant is present before Court. Upon enquiry made by this Court the complainant has stated that he had learnt from Advocate of Talha Rafiq Qureshi that he has approached the Sessions Court seeking enlarge on Bail. He had filed an affidavit from the Advocate representing Talha Rafiq Qureshi that he has no objection to grant of Bail. Upon

further enquiry, the complainant submits that since he did not wish to proceed further he has filed the affidavit. It is a case of tampering of evidence. The accused had approached to the complainant after playing fraud on this court. The court was not inclined to grant Bail to accused Talha Rafiq Qureshi. The advocate for the applicant was instructed to withdraw the application and upon instructions the said application was withdrawn.

6. As far as merits of this case are concerned, it is clear that both the applicants had taken the complainant to Demolo Road. It was after Talha Malim made a call to some person that police jeep had reached the spot. Thereafter Talha Malim had accompanied Talha Rafiq Qureshi alleged as his brother. They both had returned with plastic bag purportedly containing Rs. 10 Lakhs. Learned Counsel appearing for accused Arif Khan in Application No. 2087 of 2016 has categorically said that infact the bag did not contain Rs. 10 Lakhs but only packets of biscuits and the case is made out Talha Rafiq Qureshi posed that he paid Rs.10 Lakhs to save the complainant. Learned Counsel in Application No. 2087 of 2016 also submits that in fact applicant happens to be the friend of the complainant and he had no reason to cheat or detained him for taking ransom. On perusal of the papers of investigation, it is clear that all the concerned had hatched the conspiracy that two other accused who had posed as police officers to detain the complainant, threatened him of dire consequences and danger to life and had asked for ransom. The complainant was made to believe that Talha Rafiq Qureshi has helped with Rs. 10 Lakhs and subsequently it is also submitted that Talha Rafiq Qureshi was demanded Rs.10 Lakhs from the father of the complainant. however it was not paid as in the meanwhile the complainant had

approached the police. Taking into consideration the material collected in the course of investigation, the messages exchanged between accused, sending the photos and the images of the complainant to the co accused, it is the case of 364(a) which is punishable with imprisonment for life. Moreover, the conduct of Talha Rafiq Qureshi of playing fraud on this Court by withdrawing the application only to approach the Sessions Court with an affidavit of the complainant would clearly indicate there is tampering of evidence and interference with the administration of justice.

7. In the circumstances, the present applicants do not deserves to be enlarged on bail. However, the Sessions Court is directed to expedite the trial and conclude the recording of evidence as far as possible within three months from the date of framing of charges as the only relevant witnesses be examined would be the complainant, the father and the investigating officer.

8. Both the applications, accordingly, stand disposed of.

(SMT. SADHANA S. JADHAV, J.)