

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

BAIL APPLICATION NO.2006 OF 2018

Alok Shivaji Bhalerao	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

Ms.Pooja Thakur for the applicant.
Ms.Sharmila S. Thakur, APP for respondent-State.
Mr.S.Y. Mujavar, ASI, Paud Police Station.

CORAM : P.N. DESHMUKH, J.
DATE : 11th April 2019

P.C.:

1. Heard learned counsel for applicant and learned APP. Investigating Officer is present. Perused copy of charge-sheet filed with application. This application is filed by one of co-accused involved in C.R. No.77 of 2011 registered with Paud Police Station, Pune for the offences punishable under Sections 364-A read with 34 of IPC.

2. Learned counsel for applicant by referring to complaint and other documents consisting of statements of Ajit Nihman and Durgaprasad Singh, both the employees of complainant Suhas Bafna and one Vilas submitted that from these documents which are mainly relied by prosecution, there is no role implicating accused established in present case. On earlier date, after hearing the matter substantially and on

considering contents of FIR, it was found necessary to obtain instructions from prosecution if during the course of investigation, call detail records in respect of mobile phones of complainant and his brother-in-law are collected. Learned APP, on instructions from Mr. Mujavar, ASI, Paud Police Station, makes a statement that no investigation in respect of any CDRs is carried out. In the background of submission advanced, perusal of report would reveal that complainant is a businessman having his workshop in his office premises where Ajit Nihman and Durgaprasad Singh are employed. On 20th May 2011 at around 10.30 a.m. when complainant was present in his office along with his employees, 4-5 unknown persons arrived to whom complainant met by going down. When all those persons along with 3 others who were standing near two wheelers made complainant forcibly to sit on vehicle of motor cycle and took him to village Mutha and was kept in one Gym.

3. It is thus specific case of complainant that from this place, one amongst those persons removed complainant's mobile and after assaulting complainant by cricket stumps, iron rod and kick blows, demanded ransom amount of Rs.30 lakh and extended threats to kill if same is not paid. It is further alleged that one person then handed over complainant's mobile phone to complainant directing him to inform his

relatives to come to Indai Lawns along with first installment of Rs.10 lakh. Complainant accordingly contacted his brother-in-law Vilas Khivsara on phone and instructed accordingly. Within 2-3 hours, he contacted complainant saying that he could not arrange for said amount. Ransom amount therefore was reduced to Rs.5 lakh. Complainant again contacted Vilas and enquired how much amount he collected upon which he informed that part of said amount is collected from relatives. Accordingly, he again phoned to Vilas to come with aforesaid amount collected as was threatened to pay said amount and to pay balance amount on following day. From report, it is further noted that again complainant was required to use his cell phone informing his relatives or Vilas to come near Sahyadri hotel. Considering contents as aforesaid, it is found that CDRs would have played major role to establish case of prosecution. However, for the reason best known to prosecution, no investigation is carried out, with regards to CDR's of complainant's Sim Card. Admittedly applicants are not named in FIR.

4. Prosecution though had relied upon statement of Vilas, Ajit Nihman and Durgaprasad Singh, employees of complainant, their statements also do not establish involvement of applicant as corroborated in the complaint thereby involving 4-5 unknown persons who forcibly

took complainant after calling him down on their motorcycles and about incident which took place in Gym at Village Mutha. Learned APP though had contended that there are criminal antecedents against applicant and he is also involved in MCOC case, counsel for applicant submits that except for trial invoking MCOC provisions, he is released on bail in another crime. In that view of matter, considering available evidence against applicant which in no way implicate him in any manner, pendency of other cases by itself could be no ground for rejection of bail. Application is therefore allowed as per order below :-

ORDER

- (i) Applicant Alok Bhalerao in C.R. No.77 of 2011 registered by Paud Police Station, Pune for the offences punishable under Sections 364-A read with 34 of IPC shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount;
- (ii) While on bail, applicant shall mark his presence with Paud Police Station once in three months, on the first day of each such month, pending trial.
- (iii) Application stands allowed in above terms.

P.N. DESHMUKH, J.