IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1931 OF 2016

Keshav Balu Bhange … Applicant
V/s.
The State of Maharashtra … Respondent

- Mr. Ashok P. Mundargi, Sr. Advocate i/b Aashish Satpute a/w Raviraj Paramane for the Applicant.
- Mr. A. R. Kapadnis, APP for State
- Santosh Natkar, API, AEC

CORAM : PRAKASH D. NAIK, J.

DATE : 25th FEBRUARY, 2019.

P.C. :

1] The applicant is seeking bail in CR No. 269 of 2015 registered with Dahisar Police Station. The investigation was then transferred to DCB-CID vide CR No. 67 of 2015. The offence is registered under Sections 120-B, 387, 34 of IPC and Section 3(25) of the Arms Act. Subsequently, the provisions of MCOCA were invoked under Section 3 (1) (ii), 3 (2) and 3 (4) of MCOC Act 1999.

2] The applicant is accused no. 3. The prosecution's case is that the informant and his son received various threatening and extortion calls from one "Vikram Thakur". The accused demanded amount of Rs. 15 crores, and further made the complainant and his son to settle for extortion amount of Rs. 2 crores. The informant was threatened that in case if he failed to settle the matter, he would be shot. There after the informant and his son received several calls numbers as well as unknown numbers on 9th of June 2019. The informant received a call and he was threatened that in case, he refused to pay the amount of Rs. 2 crores, his son would be shot. In these circumstances, the First Information Report was lodged in Dahisar Police Station.

3] The investigation had commenced and some of the accused were arrested. The applicant was arrested on 15th June 2015. During the course of investigation it was revealed that the arrested accused were working collectively as crime syndicate headed by wanted accused no. 1. It was revealed that the wanted accused no. 1 is a overseas based gangster and number of complaints are registered against him at various places. The arrested accused were part of an organized crime syndicate headed by the said accused. The investigation of the complaint and the charge-sheet was filed. The applicant preferred an application for bail before the Sessions Court which has been rejected by order dated 3rd May 2016.

4] The Learned Counsel for the applicant submitted that there is no evidence against the applicant establishing his complicity in the present crime. It is submitted that the offence was registered under Section 387 read with Section 120-B and 34 of IPC. The applicant is not involved in issuing any threats to the informant or his son. The prosecution is relying on the statement of witnesses which refer to the earlier cases in which the applicant has been granted bail. It is further submitted that there is no cogent evidence to establish that the applicant is member of the crime syndicate headed by the accused no.1. It is further submitted that the phone calls details pertain to the period for the month of April 2015 whereas conspiracy was hatched in May 2015 and during the said period, there was no interaction between the accused. It is further submitted that the confessional statement is not sufficient to show the involvement of the applicant in the crime in absence of any other corroborative evidence. The applicant is in custody since June 2015 and there is no progress in the trial.

5] Learned APP submitted that the there is sufficient evidence to show the involvement of the applicant in the crime. The statements of the witnesses indicate the involvement of the applicant in the earlier crimes which links the applicant with the crime syndicate. It is further submitted that the confessional statement of the co-accused gives details as to how the applicant is involved in crime and is a member of the crime syndicate. There is recovery of the revolver from the applicant and the case of the prosecution is that the applicant had used the said revolver in other crimes. It is further submitted that the investigation revealed that call data was collected which shows that there are calls between the accused even during the period for the month of May 2015 which shows that the applicant is involved in the serious crime and in accordance with Section 21 (4) of the MCOCA Act, the applicant is not entitled for the bail.

6] I have perused the charge-sheet. The F.I.R. was initially registered for the offence under Section 387 read with 34 of 120-B of IPC. During the course of investigation, the Investigating Officer has recorded the statements of witnesses which are part of the charge-sheet wherein the involvement of the applicant was disclosed in the other crimes. The confessional statement of the co-accused establishes the link of the applicant in the crime syndicate. The call records also show the interaction of the applicant with the co-accused. Prima facie, there is evidence showing in the involvement of the applicant in the crime. Learned APP also pointed out that the trial has commenced and prosecution has examined 3 witnesses. It is also submitted that the co-accused Nadeem Kazi had preferred an application for bail which was withdrawn and Trial Court was directed to conclude the trial within a reasonable time.

7] In these circumstances, no case for grant of bail and hence, application is rejected.

[PRAKASH D. NAIK, J.]