

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

BAIL APPLICATION NO. 3160 OF 2018

Tukaram Sakharam Badade

...Applicant.

Vs.

The State of Maharashtra

...Respondent.

Mr. Mr.Kuldeep S. Patil with Megha Bajoria for Applicant.

Mr. Prashant Jadhav, APP for the Respondent/State.

Mr.Shrinivas Sawant PSI, Saswad Police Station, Pune present

CORAM : P.N. DESHMUKH, J.

DATE : 15TH MARCH, 2019

PC :

1. Heard learned counsel for applicant and learned APP. Investigating Officer is present in court. Perused copy of charge sheet.
2. This application is filed by applicant-accused involved in CR I-12 of 2018 registered with Saswad Police Station, Pune. Learned counsel for applicant submitted that, in the entire charge sheet, there is no evidence against applicant establishing his involvement and further contended that, from statements of witnesses who are owners of cell phones which are referred in FIR establish that complainant never had sim card of said number nor applicant at any point of time possess sim card referred in FIR

from which on 12.1.2018 number of times the complainant has stated to be contacted. It is therefore submitted that, no involvement of applicant for this reason can be said to be established. It is also submitted that, prosecution has not placed on record any document establishing complainant's visit to Saswad Police Station along with applicant in the form of station diary entry and thus contended that, allegations made in FIR in this effect cannot be said to be substantiated. It is therefore, prayed that. application be allowed by imposing suitable conditions.

3. Learned APP. opposed application on the ground that applicant's involvement is based on statement of co-accused who are juvenile and on the ground that criminal antecedents of applicant. In the background of submissions advanced by the parties and on perusal of report, it reveals that on 9.1.2018 complainant is said to have received phone call on two occasions from unknown persons demanding cash of Rs.20,000/-. Said phone is claimed by complainant who has received by him on his cell phone ending with digit 9096979644. Report further reveals that, on 12.1.2018, complainant received phone call on his mobile from cell phone having sim card No.9657470236 when said demand was repeated. According to complainant on 12.1.2018 he received phone from four occasions.

Documents filed along with charge sheet reveal that as per statement of Ashok Wadpe cell phone ending with 9096979644 is owned by him and at the material time same was used by his son Yogesh. Similarly cell phone no. ending with 9657470263 from which complainant claims to have received four phone calls on 12.1.2018, on investigation it is found that owned by one Vijay Prajapati from M.P. however his statement could not be recorded since not found available. In view of above case of complainant as put forth against applicant to have demanded money prima facie appears to be untrue.

4. In later part of report, it is stated that as per directions received, complainant reached at the spot where applicant arrived with co accused Aditya and claims to have taken both of them to Saswad Police Station however, no station diary entry of above fact is taken as stated by learned APP. on instruction from Investigating officer. In view of above, it is thus seen that, there is absolutely no evidence against applicant to establish his involvement in the present crime. The ground put forth by prosecution opposing application does not stand for the reason as applicant's involvement as stated by learned APP. Is based on statement of co-accused which is inadmissible thus there appears substance in application.

Application is allowed as per following order.

ORDER

- a) Applicant Tukaram Sakharam Badade shall be released on bail in CR No.I-12 of 2018 registered for offence punishable under Sections 368, 323, 506 read with 34 of the Indian Penal Code by Saswad Police Station, District Pune on his executing PR bond in the sum of Rs.25,000/-with one surety in the like amount.
- b) On being released on bail, the applicant shall mark his presence once in three months on first day of said month with Saswad Police Station, District Pune pending trial.
- c) Applicant shall attend trial court on fixed dates and shall not tamper with witnesses.

(P.N. DESHMUKH, J.)