

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

930 CRIMINAL APPLICATION NO.2499 OF 2019

SHAIKH AYAZ SHAIKH KALEEM
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicant : Mr. H.V. Tungar
APP for Respondent/State : Mr. S.J. Salgare
Advocate for Respondent 2 : Mr. R.N. Jadhav (appointed)
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**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 05/02/2021.

ORDER : [PER T.V. NALAWADE, J.]

1. The proceeding is filed for relief of quashing of the proceeding of Sessions Case No. 78/19 pending before the Sessions Judge, Beed. The case is filed in C.R. No. 83/2015 which was registered in Beed City Police Station for the offences punishable under sections 364-A, 120-B, 211, 506 and 34 of Indian Penal Code. Both the sides are heard. The papers of investigation were made available for perusal.

2. The crime was registered on the basis of report given by Shahenaz Shaikh, mother of the person who was kidnapped for extracting money. Jahangir was doing the business of property development and he was also broker. He was making handsome money in those days and he had employed many

persons to help him. He had started doing this business by selling his own property for Rs.20-22 lakhs.

3. On 2.5.2015 at about 12.00 noon accused Shahebaz called Jahangir under pretext that Shahebaz wanted to show some property to Jahangir. Jahangir was initially reluctant, but after 3.10 p.m. due to insistence of Shahebaz he went. As Jahangir did not turn up for some time, his brother Harun gave phone call to Jahangir. Jahangir initially said that he was at home, but when his brother Harun said that he was calling Jahangir from the residential place of Jahangir, the phone was cut. After some time again a ring was given and on that occasion, the phone was picked up, but no information was given. Then during another call information was received that Jahangir was kidnapped and he was taken to Pune. Then one person who was on another side said to Harun that they were demanding Rs. one Crore for giving back custody of Jahangir and if the demand was not met with, they would murder Jahangir. Warning was given not to inform about this kidnapping to anybody. Immediately after such demand, mother of Jahangir approached police and gave report and the crime came to be registered on the same day for aforesaid offences.

4. The papers of investigation show that Jahangir was detained in a house from lonely place and from there, he somehow escaped. The papers show that Jahangir had realised that present applicant Shaikh Ayaz, who is brother of main accused Shahebaz had given shelter to the main accused. Supplementary statement to that effect is given by Jahangir and it is his contention that main accused Shahebaz and Gujjarkhan were giving threat to finish him if their demand of Rs. one crore was not met with. There are statements of relatives of Jahangir to the effect that such disclosure was made by Jahangir to them also. Thus, Jahangir knows that present applicant was involved in the aforesaid acts which were done by the main accused.

5. The record of investigation show that F.I.R. was given immediately after receiving the threat and demand from the accused persons. Section 120-B of I.P.C. will be used. Conspiracy can be inferred on the basis of various circumstances. The circumstance include involvement of various persons and playing different parts by each conspirator. Admittedly, present applicant is real brother of one of the main accused and during incident, present applicant had given shelter to the main accused. This circumstance cannot be ignored as this circumstance can become sufficient against the applicant to

prove that he was one of the conspirators. In view of this circumstance, this Court holds that it cannot be said that there is no material at all against the applicant. In the result, the application is dismissed. The fees of the appointed counsel is quantified as Rs.4,000/- (Rupees four thousand) and it is to be paid through High Court Legal Services Authority Sub Committee Aurangabad.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/