

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

CRIMINAL BAIL APPLICATION NO. 1138 OF 2019

Shridhar Vidyadhar Ghasti

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Kedar Patil for the Applicant

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent No.1–State

CORAM : REVATI MOHITE DERE, J.

WEDNESDAY, 20th JANUARY 2021

P.C. :

1 Heard learned counsel for the applicant and the learned A.P.P for the State.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 142 of 2017 registered with the Shahapur Police Station, Kolhapur, for the alleged offences punishable under Sections 384, 386, 507, 325, 34 of the Indian Penal Code and under Sections 3(1)(ii), 3(2), 3(4), 3(5), 4 of the Maharashtra Control of Organised Crime Act.

3 Learned counsel for the applicant submits that the applicant has been falsely implicated in the said case and that he is, in no way, connected with the organized crime syndicate allegedly run by co-accused Pravin Rawal. He submits that the only allegation in the FIR as against the applicant is, that he would go and collect Rs. 20,000 – 25,000 from the complainant on behalf of co-accused Pravin Rawal. He submits that there is nothing to show that the applicant had knowledge that the money collected from the complainant was extortion money. He further submits that there is not a single case registered as against the applicant, prior to the aforesaid case, nor any case registered along with co-accused Pravin Rawal, who is allegedly the gang leader. He submits that the applicant is in custody since 8th September 2017.

4 Learned A.P.P opposed the application. Learned A.P.P has filed an affidavit of Dr. Prashant Amrutkar, Dy.S.P. of Sub-Divisional Police Officer, Karveer Sub-Division, Karveer, Kolhapur. He submits that the allegation as against the applicant is that he would go and collect the extortion money on behalf of Pravin Rawal from the complainant. He submits that there is an eye-witness who has seen the applicant collecting the said money. Learned A.P.P, however, does not dispute the fact that the applicant has no antecedents apart from the aforesaid case.

5 Perused the papers. According to the complainant-Deepak Powar, he was in the business of construction of buildings at Ichalkaranji. It is alleged by the complainant that when he started constructing building at Ichalkaranji, Pravin Rawal along with two others approached him and demanded extortion money of Rs. 20,000/- per month for not disturbing the construction work. Pravin is alleged to have threatened the complainant that if he did not pay the extortion money, he would create hurdle in the construction work. As the complainant did not pay/fulfill the demand for money, it is alleged that on 2nd May 2016, Pravin and two other co-accused (not the applicant) came at the construction site and assaulted the complainant with a wooden stick, pursuant to which, complainant sustained a fracture on his hand. Pravin is alleged to have threatened to kill the complainant, if he failed to make the payments. Pursuant thereto, the complainant started paying extortion money of Rs. 20,000/- to Pravin Rawal. Thereafter, after a few months, Pravin Rawal demanded Rs. 25,000/- as extortion money from the complainant. As the complainant could not fulfill the demand, he left Ichalkaranji and went to reside at Jaysingpur with his family, because of the fear and terror of the accused. On 27th November 2016, it is alleged by the complainant that the accused assaulted him with a stick, pursuant to which, he was admitted in the hospital at Jaysingpur. It is further alleged that the accused threatened that

if he complained to the police, they would kill him, as a result of which, he did not lodge a complaint against the accused.

6 As far as the applicant is concerned, the complainant in his FIR has stated that the applicant (original accused No. 2) and accused No. 3- Ajit Naik would come and collect the extortion money from the complainant on behalf of Pravin Rawal. Admittedly, prior to the aforesaid case, not a single case was registered as against the applicant nor with Pravin Rawal.

7 It appears from a perusal of the FIR that the complainant knew the name of the applicant, however, has not named the applicant as having assaulted him, in the FIR. It appears that only after a month that the complainant has stated that one of the unknown persons who assaulted him was the applicant. *Prima facie*, it seems to be an afterthought, having regard to the fact that if the applicant was involved in the assault, the applicant would have been named in the FIR, as the complainant knew the applicant's name.

8 Learned counsel for the applicant submitted that the applicant had no knowledge that the amount that he was collecting from the

complainant was extortion money. The said possibility cannot be ruled out at this stage, inasmuch as, there is no offence registered as against the applicant prior to the aforesaid case, much less, with the main accused Pravin Rawal.

9 Considering the material on record, *prima facie*, it appears that there is no material to connect the applicant with the alleged offence. Considering the aforesaid, the applicant deserves to be enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, except if the date in the trial Court falls on a Saturday, till the conclusion of the trial;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the

Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10 The application is allowed in the aforesaid terms and is accordingly disposed of.

11 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12 All concerned to act on the copy of this order, digitally signed
by the Senior Private Secretary of this Court.

REVATI MOHITE DERE, J.