

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 402 OF 2021

Salman Salim Gondalwala ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Rajendra Rathod i/b. Ali Bubere, Advocate for the Applicant.

Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 5th MARCH, 2021

PER COURT:

1. The applicant is apprehending arrest in C.R. No.76 of 2020 registered with Byculla Police Station, Mumbai for offences under Sections 387, 506(2), 452, 142, 143, 149 r/w Section 34 of Indian Penal Code.

2. The First Information Report was registered on 19th March, 2020. It is alleged that the complainant is developer. Ahmad Mansuri @ Ahmad Langda is associate of Chota Shakil. He had visited complainant's house and pointed pistol to his mother and inquired about whereabouts of the complainant. He also told his mother that the complainant should be informed that he shall pay the amount of Rs.3,50,000/-. He threatened complainant's mother. On account of mental trauma complaint was not lodged. Thereafter,

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Ahmed Mansuri gave call to the complainant and told him that his son-in-law Salman would visit him and he shall do the needful. Thereafter, he sent repeated messages of extortion to him. The complainant went on buying time and avoided his calls. Subsequently the complainant also received threatening calls. On 14th March, 2020 the complainant received Whats-app messages asking him as to when he would pay the rent and the said rent has to be given to father-in-law Ahmed Mansuri. The complainant replied that he can't make the payment. The caller gave his name as Salman. Thereafter, the complainant was abused and threatened and told that he will received call from higher up. On 14th March, 2020 the complainant was informed by his servant Tausif that Salman had visited the office with ten to twelve armed persons, when the complainant was not in the office. At that time, Tausif Shaikh and Naim Sutar were present. The said persons demanded Rs. 3,50,000/- and threatened that he would be killed if the amount is not paid. Thereafter, Salman sent the messages abusing the complainant and threatened him. The complainant forwarded his complaint to the Police Station on 16th March, 2020. The FIR was registered on 19th March, 2020.

3. The applicant had preferred an application for anticipatory bail before the Sessions Court. The said application was

opposed by filing say. By order dated 25th November, 2020, the application for anticipatory bail was rejected. Thereafter, he preferred another application for anticipatory bail which was rejected by order dated 3rd February, 2021. The father-in-law of the applicant Ahmed Mansuri had also preferred an application for anticipatory bail. On health ground, the said application was allowed by order dated 3rd February, 2021.

4. Learned counsel for the applicant submitted that false case has been filed against the applicant. Father-in-law of the applicant Ahamed Mansuri had booked the flat with the complainant 20 years ago. The copy of the agreement has been annexed to this application. The messages exchanged between the applicant and complainant are in the nature of regular conversation which do not indicate any sort of intimidation to the complainant or demand of extortion of amount. Father-in-law of the applicant was granted anticipatory bail on medical ground and charge-sheet is also filed against applicant showing him wanted. It is submitted that one of the message shows that the rent was demanded from the complainant. The transaction was relating to the purchase of flat by the father-in-law of the applicant. The applicant's father-in-law had subsequently expired. It is submitted that the allegations that the applicant had entered into the office of complainant with ten to twelve persons,

who were armed with weapons is completely false. The prosecution is relying upon the C.C.T.V. footage. It does not corroborate the version of the complainant. Subsequently, the prosecution is alleged that 5 to 6 persons had accompanied the applicant. There is no connection of father-in-law of the applicant with underworld as alleged by complainant.

5. Learned APP submitted that FIR attributes role to the applicant. He acted in connivance with his father-in-law. The complainant was threatened. Learned APP relied upon the messages exchanged between the applicant and the complainant. Investigation is in progress.

6. From the FIR it is apparent that the alleged first incident of threat by father-in-law of the applicant had occurred nine months ago. There is no complaint in that regard. Whats-app message indicate that the complainant was questioned as to when he is going to pay rent to father-in-law of the applicant. The contents of whats-app messages exchanged between the complainant and the applicant does not indicate that there were any threat for extortion. Text messages relied upon by the prosecution does not show that there were any threat of extortion. C.C.T.V. footage does not show that the applicant and his associates were at any point of time armed with

weapons. The C.C.T.V. footage is collected. However, the 'Say' nowhere mentions that ten to twelve persons as alleged by the complainant were armed with weapons while entering office of complainant. Prosecution had not brought out any material showing that the co-accused (father-in-law of the applicant) had any links with underworld. In these circumstances, the applicant need not be subjected to custodial interrogation. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No.402 of 2021 is allowed;
- (ii) In the event of arrest of the applicant in connection with C.R. No.76 of 2020 registered with Byculla Police Station, Mumbai, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the investigating officer on 15th, 16th & 17th March, 2021 between 11.00 a.m. to 1.00 noon.
- (iv) The applicant shall not tamper with the evidence.
- (v) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)