

NSC.

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

CRIMINAL BAIL APPLICATION NO.1076 OF 2019

Pradeep Dhondiram Ghadge

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Viresh Purwant a/w Mr. Rushikesh Kale i/b Mr. Sameer S. Kadam, for the Applicant.

Ms. S. V. Sonawane, A.P.P for the Respondent – State.

HC 1807 – K. K. Kumbhar, Koregaon, District- Satara, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th FEBRUARY, 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No.0002 of 2018 registered with the Pusegaon Police Station, Satara for the alleged offences punishable under Sections 143, 147, 384, 452, 504, 506, 507 of the Indian Penal Code ('I.P.C'). During the course of investigation, Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act ('M.C.O.C. Act') and Sections 385, 120B and 75 of I.P.C were added.

3. Learned Counsel for the applicant submits that there is no material on record to connect the applicant with the alleged offences. He submits that the applicant is the brother-in-law of co-accused – Mangesh Sawant and that by itself is not sufficient to show the complicity of the applicant in the alleged crime. He submits that there is a civil dispute between Parubai, Chandrakant and Mangesh Sawant's family and Sarjerao Mane's family. He submits that the applicant is neither the beneficiary from the said civil land dispute nor is concerned with the same. He submits that even in the FIR dated 31st December 2017, lodged by Rajkumar Nivrutti Jadhav, the applicant's name has not been disclosed. He submits that the applicant has not been identified in the Test Identification Parade (TIP) and that there is no recovery at the applicant's instance. He submits that merely because the applicant has two antecedents cannot be a ground to detain the applicant in the alleged crime. He further submits that none of the 2 offences with which the applicant is charged are with the gang leader – Datta Jadhav.

4. Learned APP opposes the application. Learned APP has filed an affidavit of Suhas Sampatrao Garud, Sub Divisional Police Officer, Satara Rural Camp, Koregaon, District – Satara to oppose grant of bail to the applicant.

5. Perused the papers. According to the complainant – Rajkumar Nivrutti Jadhav, his brother-in-law – Sarjerao Mane has 5 acres of land at Vanvaswadi and Sangamnagar, District - Satara. The complainant has stated that Arjun Dattu Mane had illegally partitioned the land belonging to Sarjerao Mane by taking undue advantage of his illiteracy. He has stated that pursuant thereto, the complainant's nephew – Harishchandra Mane had filed a Regular Civil Suit before the Civil Court, Satara. It is alleged that during the pendency of the said Suit, Chandrakant Sawant and Pradeep Ghadge (Applicant) had taken power of attorney by cheating Sarjerao Mane and his two sisters. The prosecution has not pointed out any document i.e power of attorney to show that any such power of attorney was made in favour of the applicant. It appears that Chandrakant Sawant sold 75 guntas of land to Geetabai Zhavar, Jayant Thakkar and one Vaibhav Giri. It appears that after the sale transaction took place, Harishchandra sent a lis pendence notice to the said persons i.e. 3 purchasers. The complainant has further alleged that in October 2017 at about 3.00 p.m. co-accused - Mangesh Sawant entered the house of the complainant and threatened him on account of a land transaction; that after 12-13 days at around 12'noon co-accused – Datta Jadhav, Chandrakant Sawant, Mangesh Sawant and 8-10 persons came in two cars at Pusegaon and called the complainant near Siddhanath Patsanstha; that the said persons demanded

Rs.16 lakhs to settle the land dispute which was pending before the Court and also threatened the complainant with dire consequences. The complainant has also alleged that the accused threatened him personally on phone in the name of Datta Jadhav. *Prima facie*, from the material on record, it does not appear that the applicant was present when co-accused – Mangesh had visited the complainant's house on earlier 2 occasions. There are eye-witnesses to the alleged incident, however, none of the eye-witnesses have named the applicant. Admittedly, the applicant was not put up in TIP and as such has not been identified as being one out of the 8-10 persons who accompanied co-accused – Mangesh to the complainant's house. There is no recovery at the instance of the applicant. It appears that the statement of the applicant was recorded under Section 18 of the M.C.O.C. Act, however, a perusal of the said statement shows that the applicant has not disclosed anything about the alleged incident of October 2017. Learned APP also does not deny the same. Apart from what is stated aforesaid, there is no other material to connect the applicant with the alleged offences. Considering the aforesaid, the bar of Section 21 (4) of the M.C.O.C. Act, will not apply.

6. Considering the aforesaid, the application is allowed and the applicant is 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, till the conclusion of the trial;
- (iii) The applicant shall not enter the jurisdiction of Pusegaon Police Station, Satara, till the conclusion of the trial, except for the purpose of attending the police station, as mentioned in clause (ii);
- (iv) 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;
- (v) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

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

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

(viii) If there are two consecutive defaults either in attending the Police Station or if the applicant fails to appear before the trial Court, or there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

8. 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.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.