

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2974 OF 2021

SHAMRAO VITHAL TEVARE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Kuldeep Patil i/b. Ms.Saili Dhuru, Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 17th NOVEMBER 2021
PRONOUNCED ON : 26th NOVEMBER 2021

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.I-158 of 2018 registered with Police Station Bhuinj, Satara, for offences punishable under Section 384, 385, 386, 364 read with 34 of the Indian Penal Code (IPC) and under Section

AVK

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3(25) of the Arms Act and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (MCOC Act).

2 The offence in question took place between 12th December 2017 to 3rd May 2018. According to prosecution in the month of December 2017 an online tender for scrap material was called out by Kisanvir Co-op. Sugar Factory, Bhuij. The informant, who is a scrap merchant, along with his business partners visited the place to see the scrap material. It is alleged that, at that time, informant got acquainted with the applicant and other co-accused, who threatened the informant not to file the tender without their permission and demanded a ransom amount of Rs.10 lac upon which the informant paid an amount of Rs.2 lac.

3 The prosecution further alleges that the applicant and the co-accused continued to threaten the informant and extorted moneys from him on several occasions and as the informant feared for his life and property, he kept on fulfilling the demands

made by the applicant and the co-accused. In all, the informant has given Rs.38 lacs till now.

4 Lastly, the prosecution contends that when informant came to know that the co-accused namely Dattatray @ Datta Jadhav who was the gang leader has been arrested by the police on 4th May 2018, he immediately filed the First Information Report (FIR) in question.

5 Mr.Kuldeep Patil, learned counsel for the applicant, submits that the applicant is in jail since more than three years. The trial has already commenced. Till now seventeen witnesses have been examined. However, all the material witnesses have turned hostile except the police witnesses. According to the learned counsel, the last witness who is the Sanctioning Authority, is remained to be examined but he has been declared absconding and there are no immediate chances of completion of trial. In such circumstances, the applicant deserves to be enlarged on bail.

6 The learned counsel has also given the case details from which it appears that eight witnesses have turned hostile whereas the remaining witnesses are police officers who have not taken the name of applicant and the only remaining witness is the Sanctioning authority.

7 As against above, Mr.Dedhia, learned APP, fairly admits that all the prosecution witnesses, except police witnesses, have turned hostile. Sanctioning authority did appear through video conferencing once but his evidence could not be completed. In such circumstances, he submits that appropriate order may be passed.

8 I have carefully gone through the case details furnished today by the learned counsel for the applicant. It appears that prosecution witnesses namely Omveer Ajmera, Iqbal Sayyad Taleeb, Mohommad @ Mazahar Harun Khan, Amol @ Gorakh Baban Bandgar, Aarif Shagir Patel, Ramesh Maruti Kulawade, Shaikh Mohommad Juber and Bipin Ramkrushna

Gupta have turned hostile. The remaining witnesses from Serial Nos.9 to 16 are police witnesses who have not taken the name of applicant in any manner indicating even his alleged involvement in the crime. PW17 has also been examined who is the Investigating Officer. However, PW18 i.e. the last witness and Sanctioning authority is admittedly declared absconding by the competent Court. As per the submissions of learned counsel for the applicant, this is a fact which is not disputed by the learned APP.

9 Thus, there being no cogent and convincing evidence, there is no alternative but to release the applicant on bail. Hence I pass the following order :

ORDER

- (i) Applicant – Shamrao Vithal Tevare shall be released on bail in Crime No.I-158 of 2018 registered with Police Station Bhuinj, Satara, on his executing P.R.Bond in the sum of Rs.50,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) The applicant shall not leave the jurisdiction of the concerned police station without prior permission of the Court.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)