

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 654 OF 2020

Sagar Satish Kumar Yadav @ Dev .. Applicant

Versus

The State of Maharashtra .. Respondent

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Sudeep Pasbola i/b Karl P. Rustomkhan a/w Ayush Pasbola for the applicant.

CORAM: BHARATI DANGRE, J.

DATED : 19th JULY, 2022

P.C:-

1. The applicant seek his release on bail on being charge-sheeted for the offence punishable under sections 387, 120- B of IPC, and Sections 3(1) (ii), 3(2) and 3(4) of the MCOC Act. He came to be arrested on 2/04/2019 and the Special Court rejected his bail application on 22/01/2020, which has constrained him to approach this Court.

Heard Learned Counsel Mr. Pasbola for the applicant and the learned APP for the State.

2. The case of the prosecution is, On 5/12/2018 at about 15:00 hours the employee of the informant informed him that between 14:30 hours to 14.45 hours a phone call was received by him, from one Mr. Ezaz Lakdawala, who is a wanted accused and he was asking for the mobile number of the informant.

Thereupon the informant made a phone call on the number from which the call was received and the person on the other end disclose his name to be Ezaz Lakadawala and he was told that he would call back after sometime. The informant received the expected phone call from Ezaz Lakadwala and it is alleged that he told the informant that his company was earning a huge amount and even he was having a share in it but his company did not hand over the flats to the investors and he had received several complaints from them. It is alleged that Ezaz Lakdawala asked the informant to pay the Ransom, which was refused by the informant.

3. The informant divulge to his partners about the phone call and they decided to lodge a complaint with the police station. Accordingly a complaint was lodged with Khar police Station and it was addressed to the crime branch.

During investigation the employee of the informant received calls from distinct numbers and Ezaz Lakdawala threatened to eliminate the informant by saying that he is not contacting him. Being scared he disconnected his phone, however, he being a businessman was compelled to restore his connection and once again he started receiving call from international numbers, but since the employees with the informant knew that the calls were made by Ezaz Lakdawala, they were not answered.

4. The case of the prosecution is on 27/02/2019 at about 3:35

p.m while the informant was at Bombay Hospital for treatment of his mother, he received a phone call on his mobile from a local number 002228107632 and the person on the other hand questioned the complainant as to why he was not responding the phone calls of Ezaz Lakadwala and that he should make a phone call to him. When the informant asked the person, to disclose his identity, he repeated that he should make phone call as directed and should keep 50 boxes (Khoka) ready and the phone was disconnected.

The informant produced the print out of the screen shot of his mobile phone.

5. On the CR being registered with DCB, CID under section 387, 120-B of IPC, the provisions of Maharashtra Control of Organized Crime Act were invoked and sanction was granted to prosecute the accused under the provisions of the said Act.

6. During investigation the mobile phone of the accused no.1 and the wanted accused was intercepted and it was revealed that the accused no.1 was involved in the commission of the crime and he was arrested. The involvement of the accused no.2 (the present applicant) also surfaced on record and he was also arrested.

The investigation reveal that the phone call made to the complainant was made by the applicant from a PCO booth and he has been identified by the PCO booth owner. Apart from this the confessional statement of the applicant recorded under

section 18 of the MCOC Act also indict him.

7. The material compiled in the charge-sheet filed against the 3 accused persons reveal the modesoperandi, being the leader of the crime syndicate Ezaz Lakdawala use to make calls to the businessman and threaten them and extort money. After the informant received a call from Ezaz Lakdawala for extortion, his site supervisor was attacked by an unknown assailant with sword and this resulted in registration of CR No.70/2011. The informant received phone calls from the International Number and he was threatened, that if the ransom was not paid, he face danger to his life. On 27/02/2019 he received a call from the PCO asking him to arrange for Rs. 50,0000/- or face dire consequences.

During investigation by the Anti Extortion Cell Mumbai, the accused no.1 Akil Lakadwala was apprehended and disclosed the participation of himself and other members of the Organized Crime syndicate led by Ezaz Lakdawala. He specifically assigned role to the present applicant, which establish his connection to the activities of the crime syndicate.

8. As far as the present applicant is concerned, the applicant is a person who made phone call to the informant at the instance of Ezaz Lakdawala from the PCO booth at Meera Road and he has been identified at a T.I Parade conducted on 3/05/2019 as the person who made phone call from the PCO Booth, on the given time.

9. The statement of the applicant recorded under section 18, record the confession of his participation and nexus with the organized crime syndicate led by the gang leader. On perusal of the said statement, his role in the subject crime has surfaced as he has disclosed that he was introduced to accused no.3 Akil Lakdawala and they were friends on Facebook and use to often chat. The co-accused informed the applicant that his brother Ezaz Lakdawala is a gangster and he has been entrusted the responsibility of engaging some boys to assist him. Since the applicant was in search of job, he accepted the offer.

In February 2019, he was asked to cause harm to a person in Bhendi Bazar and he was assured a handsome amount for implementing the said work. In the end of February the co-accused Akil Lakdawala gave him one mobile number and asked him to call on the said number through a PCO Booth and deliver the message of his brother. Accordingly, he approached a PCO in Meera Road and threatened the person, on the given mobile number and asked the person on the other hand to call Bhai.

Learned Counsel Mr. Pasbola would submit that it is a solitary call made by the applicant.

However looking to the statement of the applicant recorded under section 18, which is admissible in evidence, his involvement and engagement with the organized crime syndicate is apparent. The confessional statement coupled with the

identification of the applicant by the PCO owner is sufficient to charge him under the provisions of MCOCA.

Looking to his involvement and the material compiled against him in the charge-sheet, I am satisfied that he do not deserve his release on bail.

The application is rejected.

(SMT. BHARATI DANGRE, J.)