

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

CRIMINAL APPLICATION NO. 357 OF 2019

Firoz Alikhan Irani ...Applicant

Versus

The State of Maharashtra ...Respondent

CRIMINAL APPLICATION NO. 123 OF 2019

Mariyam Noor Mohd. Irani @
Mariyam Firoz Irani ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.V.M. Thorat a/w Mr.M.V. Thorat and Mr. Amar Bodhe, Advocate for
the Applicants.

Mr. S. R. Agarkar, A.P.P. for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 14th JULY, 2022

PER COURT:

1. The applicants have preferred these applications seeking transfer of Sessions Case No.17 of 2018 pending before the Sessions Court at Sangli to any other District except Sangli, Pune and Kolhapur.

2. The applicants were arrested in connection with C.R. No.133 of 2017 registered with Sanjaynagar Police Station, Sangli, for

offences under Sections 302, 143, 147, 148, 149 & 201 of Indian Penal Code.

3. The prosecution case is as follows :

The relationship between the maternal uncle of complainant Mr. Firoz Irani, his son Irfan Irani and the family of complainant were not cordial. On 20.10.2017 there was quarrel between brother of complainant Sarfaraz Irani and Irfan Irani. At about 8.15 p.m. Sarfaraj informed the complainant that he is called by Firoz Irani at his residence. Sarfaraj proceeded to the house of Firoz Irani. Complainant followed him. He saw that Sarfaraz was caught by Firoz and Maharani Irani. Irfan gave blow of knife on the body of Sarfaraz. Complainant intervened. He was threatened. Due to terror of Irfan the people residing in the area closed their doors. Jainabi Irani, Mariyam Irani were pulling hair of Sarfaraz. The complainant shouted and came to spot with persons from his area. Injured Sarfaraz was taken to hospital. He was declared dead.

4. On completing investigation, charge-sheet was filed. The case was committed to the Court of Sessions and the same is pending in the Sessions Court at Sangli as Sessions Case No.17 of 2018.

5. Learned Advocate for the applicants submitted that, during the time when the applicants were in custody, the complainant and his associates tried to destroy the house of Applicants. The articles were stolen. FIR was lodged by Fatima Jafari vide C.R. No.32 of 2018 on 12.02.2018. On 28.02.2018. Applicant's house was set on fire by Mr. Sadik @ Sultan @ Kotu Shiraj Irani. FIR was registered vide C.R. No.46 of 2018. On 12.02.2019, there was another incident of robbery at the house of the applicants wherein all the essential household items were stolen. The FIR was registered vide C.R. No.32 of 2019 on 15.02.2019. The applicants and their family members are facing serious threats and danger to their life. Applications were preferred to police authorities seeking police protection in the face of constant threat and danger to them. Despite various applications no action was initiated by the Police Authorities. The applicants had preferred an application for police protection before the Sessions Court. The said application was rejected vide order dated 04.09.2019. While attending the Court proceedings, there is danger to their life from the opponents. Several crimes were registered against the deceased and his family members. Due to danger to life, the applicants were constrained to reside outside Sangli District. The opponents are influential

persons in Sangli, Pune and Kolhapur. The proceedings may be transferred to another Court. The applicant in Criminal Application No.123 of 2022 is a student and is appearing for the Police Sub Inspector Examination. The proceedings may be transferred to any other District Court excluding the districts referred to herein above.

6. Learned A.P.P. submitted that the applicants are accused in the proceedings. The trial is pending before the Court at Sangli. The witnesses are from Sangli. At the instance of the applicants who are accused, the proceedings may not be transferred to any other district. The crime had occurred within the jurisdiction of the Court, where the proceedings are pending.

7. Learned A.P.P. relied upon following decisions :

- i) **Gurcharan Dass Chadha Vs. State of Rajasthan¹.**
- ii) **Nahar Singh Yadav and Another Vs. Union of India and Anr².**
- iii) **Usmangani Adambhai Vahora Vs. State of Gujarat and Anr³.**

8. The applicants were arrested in connection with C.R. No.133 of 2017, registered with Sanjaynagar Police Station, Sangli. The incident had occurred within the jurisdiction of aforesaid police

¹ AIR 1966 SC 1418.

² (2011) 1 SCC 307.

³ AIR 2016 SC 336.

station. On completing investigation, charge-sheet is filed. The proceedings are pending before the Sessions Court at Sangli. The witnesses are also from the same area. At the instance of applicants, the proceedings cannot be transferred to any other district Court as prayed by the applicants. However, considering the apprehension expressed by the applicants that, whenever the applicants would remain present before the trial Court, there is apprehension of danger to their life, appropriate directions could be given.

ORDER

- (i) Criminal Application No.357 of 2019 and Criminal Application No.123 of 2022 are rejected.
- (ii) The accused on bail in Sessions Case No.17 of 2018, pending before the Sessions Court at Sangli are exempted from appearing before the trial Court on every date of hearing unless their presence is necessary according to learned trial Judge. On the date of their absence they shall be represented by advocate;
- (iii) As and when the accused who are on bail remain present before the trial Court, at their request the police protection may be granted to them in accordance with Rules and at their cost;

- (iv) The accused shall remain present before the trial Court on the date of framing of charge;
- (v) Criminal Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)