

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2078 OF 2021

Shraddha Satish Mangle, 102, Lodha]
Aqua, Atlantis, Mahanaj Wadi,]
Kashimira, District Thane.] ... Applicant

Versus

The State of Maharashtra,]
(Through the Assistant Commissioner of]
Police, Anti-Extortion Cell, Crime Branch,]
Thane.)] ... Respondent

...

Ms. Abha Singh with Mr. Aditya Pratap and Mr. Rishab Khot for
the applicant.

Mr. Aabad Ponda, senior counsel with Mr. Shweta Rathod i/b
Elixir Legal Services for the Intervenor.

Ms. Anamika Malhotra, A.P.P. for the State.

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CORAM : MRS. BHARATI DANGRE, J.

RESERVED ON : 15TH JUNE, 2022.

PRONOUNCED ON : 21ST JUNE, 2022.

ORDER:-

1. By the present application, the applicant, who has been

charge-sheeted for the offences punishable under Sections 384, 386, 387 read with Section 34 of the IPC and Section 3(1)(2), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999, seeks her release on bail on the ground of her false implication and on a submission that the applicant has no connection with the subject C.R. and she is arraigned as an accused only to take revenge for the acts done, at the instance of her husband Mr. Satish Mangle, in exposing the misdeeds of the complainant. The applicant being arrested on 03/11/2017, submits that her long incarceration, is unnecessary.

2. The applicant had approached the Hon'ble Apex Court by filing Writ Petition (Criminal) No.479 of 2021 and, on 19/05/2022, on a grievance being made that the application filed by her, seeking her release on bail is not taken up for hearing despite repeated requests, upon which, it was directed that the matter shall be taken up for hearing and disposed off expeditiously, in accordance with law, preferably within a period of four weeks.

3. On the said order being noticed, the matter was listed before me on 09/06/2022. On that day, I have heard Ms. Abha Singh, learned counsel for the applicant and learned A.P.P. for the State and Mr. Ponda, learned senior counsel for the complainant.

I was informed, on the basis of the order-sheets placed before me, that the trial was at the fag end and only one witness

i.e. the then Commissioner of Police, Mumbai remained to be examined and since the cross-examination of the Investigating Officer was deferred at the instance of the accused, he was also required to be subjected to cross-examination.

4. I directed learned A.P.P. to ascertain within what period of time, the trial would be concluded and upon such direction being issued, learned counsel for the applicant submitted that if time bound direction is issued to conclude the trial, she would not press the bail application.

On 10/06/2022, learned A.P.P. appraised me of the next scheduled date of trial i.e. 13/06/2022, when the Sanctioning Authority was to be examined. Since the cross-examination of the Investigating Officer was deferred. She submitted that it shall be concluded by recording the evidence on day-today basis. Thereafter, it was stated that the case shall be fixed for recording of statement of the accused persons under Section 313 of the Code of Criminal Procedure. Learned A.P.P., on the basis of the instructions from the Special Public Prosecutor conducting the trial, made a categorical statement that the proceedings in the Special Case would be concluded by 30/07/2022, subject to all the accused rendering their co-operation.

5. The aforesaid statement by learned A.P.P., however, did not satiate learned counsel for the applicant and she assertively insisted that the trial may take its own time, but the applicant

should be released on interim bail, on account of her wrong incarceration and innocence.

6. On confronted with the position of law that at this stage and on the grounds pressed into service, the applicant cannot be released on interim bail and that the matter will have to be heard on merits, learned counsel submitted that she would argue the application on merits and requested it to be posted on 15/06/2022. That is how, today, the bail application was taken up for hearing.

7. During the course of hearing, learned A.P.P., on instructions from the Special Public Prosecutor conducting the trial informed the court that the evidence of PW-31, Param Bir Singh, the then Commissioner of Police, was recorded on 13/06/2022. She also produced on record the Rozanama of the City Civil Court at Mumbai, dated 13/06/2022, which records as under:

“Witness (PW-31) Param Bir Singh, the then Commissioner of Police, Thane present. Advocate for accused present. She has consented to cross examine the witness. Exh.504-Commenced examination-in chief of PW-31 by SPP on behalf of the State. Exh.505-Sanction order. L.O. at 01.00 p.m.- Examination-in-chief of PW-31 completed. Exh.506-Application for grant of adjournment to cross-examine the witness PW-31. O-SPP to say. Exh.506A-ld. SPP filed say on Exh.506. O-Read and Recorded. L.O. at 01.26 p.m. - The ld. Advocate for the accused submitted

that she had applied for documents, which are necessary to cross-examine these witness on 26.05.2022. Till today, she did not receive copies of those documents. Hence, she prayed to adjourn the matter on 20.06.2022. On the other hand Id.SPP filed her say (Exh.506A) and submitted that it is the modus operandi of the defence i.e. not to complete the cross-examination. She further submitted that prosecution has already supplied all the documents a/w charge-sheet and hence prayed to rejected the application. Perused application and say. This is time bound matter by Honble HC. It is to be completed by taking proceeding on day to day basis. Considering the request of the Id. Advocate for the accused, no prejudice would be caused to the prosecution if the matter is adjourned on 20.06.2022. This would be the last chance for the Id. Advocate for the accused. On 20.06.2022, no adjournment would be granted in any case.”

The aforesaid order is reproduced so as to reflect upon the conduct of the accused, when the High Court had directed the trial to be concluded in a time bound manner. I do not think, it is proper on my part to say anything more on the said aspect.

8. The present application, which seeks release of the applicant runs into 87 pages, with a prayer to release her on bail in MCOCA Special Case No.18 of 2018 registered with Anti-Extortion Cell, Thane Commissionerate, along with a prayer for interim relief, which reads thus:

“(B) THAT overwhelming evidence and violations of law brought out in this Application, on the very face of it shows that Encounter Specialist and then Sr.P.I. Anti-Extortion Cell, Thane, Mr. Pradeep Sharma, with the help of Gangster Ravi Pujari, foisted a false case against the Lady Applicant, at the behest of IAS Officer Mr. Mopalwar. As a result, the IAS officer got a clean chit from the Committee probing corruption allegations against him. Thereafter, he has created a history in the IAS to have got 4 extensions aggregating about 3½ years, in the same post as he occupied before retirement. In this way, under highly suspicious circumstances, he has commanded public funds for infrastructure to the tune of about Rs. One Lakhs Crore for Government of Maharashtra. Therefore, any incarceration of the Applicant, even for a brief moment, would not be in harmony with the conscience of justice. Accordingly, the Applicant be released on interim bail, till the time, this Bail Application is finally decided by this Hon’ble Court.”

9. The learned counsel Ms. Abha Singh for the applicant would submit that the applicant was a lactating mother, when she was mercilessly arrested by Sr.P.I. Sharma, based on the mercenary contract he took from the most powerful IAS officer of Maharashtra, who literally commands the government, - Mr. Radheyshyam Mopalwar. She would vehemently submit that, he has created history in the IAS lobby, by continuing in service with four extensions, though he is the most tainted officer in the post.

She would submit that the applicant came to be arrested on 03/11/2017 in a imaginary case and she would highlight her miseries and submit that there is no material against her in the complaint, except a reference to the transcript of a phone conversation, but on perusal of the same, it can be seen that it is an out-and-out friendly conversation to end the differences between the parties and to come out with a MoU. She has placed on record the transcript of the conversation as Exh.F and the argument is that even the husband of the applicant was heard refusing to accept money being offered by Mopalwar, when he says '*I have told you that I do not want single rupee*'.

Her submission is, that in the entire meeting, the husband of the applicant is not heard demanding the money or threatening Mr. Mopalwar and it was Mr. Mopalwar, who was coercing the applicant to come to a settlement and accept the money and from the transcript of the conversation, it is very apparent that there is no offence of extortion, punishable under Section 383 of the IPC made out.

10. Ms. Abha Singh would further submit that if the alleged incident of extortion took place in a meeting in J.W. Marriott Hotel in Juhu, then the FIR should have been lodged at the Airport Police Station, which exercises the territorial jurisdiction, but that was not done. She would submit that the plan of Mr. Mopalwar is to convert the civil matter to a criminal case, so as to negotiate the

settlement. As far as the involvement of Gangster Ravi Pujari is concerned, she would submit that, in order to keep the applicant and her husband incarcerated for long, the provisions of MCOCA was invoked by involving the Gangster Ravi Pujari and on a pretext of making a fictitious call in his name just to invoke the provisions of MCOCA. She alleges Mr. Mopalwar of forum shopping by arranging the FIR to be filed in such a way that the investigation is conducted by the Sr.P.I. Pradeep Sharma. She placed reliance upon certain documents to prove the violation of law and, it includes the FIR dated 3/11/2017 showing that the case was given for investigation to the Police Inspector Mr. Kothmire, the search panchanama, copy of the statement recorded by Sr.P.I. Sharma on 12/11/2017 related to the threat given by Gangster Ravi Pujari and copy of the order dated 12/12/2017 whereby the case was handed over to Sr.P.I. of Anti-Extortion Cell for investigation, which show that till then, the entire investigation was done in an illegal manner.

Relying upon those documents, learned counsel asseverated her stand that the investigation of the case from 02/11/2017 to December, 2017 was done without any authority and the MCOCA charge-sheet submitted is without jurisdiction and, in fact, the threat by Gangster Ravi Pujari was an all together different offence, which happened in the jurisdiction of a different police station.

11. On hearing learned counsel for the applicant and having

perused the exhaustive bail application, which is more of a writ petition, alleging violation of rights of the applicant rather than an application seeking bail in the backdrop of the parameters set out in Section 439 of the Cr.P.C., so being the arguments of learned counsel, who repeatedly insisted that the arrest of the applicant is wrongful and the applicant was not even present at the spot and the FIR preceded a trap by Anti-Extortion Cell. She kept on insisting that her husband is a whistle blower and is raising his voice for nabbing the illegal activities of the complainant and his associates and the arguments advanced were more in the nature of an espousing case of illegalities being committed by the police officers being exposed by her husband, for which she has been made a scapegoat.

12. In the entire lengthy application, it is difficult to find out the crux of the matter and the grounds, which would entitle the applicant to be released on bail by showing that no *prima facie* case exists against her and would not justify her long incarceration.

Very surprisingly, the application for bail filed under Section 439 of the Cr.P.C., despite a charge-sheet being filed, is not accompanied by the charge-sheet.

I repeatedly asked Ms. Abha Singh, learned counsel about the manner in which her case can be appreciated, as once the charge-sheet is filed on completion of investigation, the material against the accused is crystallized therein, and the bail application

necessarily is to be argued in the light of the said material and the FIR is then to be considered only as document setting the investigation into motion. The learned counsel, however, submitted that she does not want to rely upon the charge-sheet and she was even unaware that the charge-sheet comprising of 3 volumes in running into more than 3000 pages, which learned A.P.P. has tendered across the bar.

13. I considered it my duty to afford an opportunity to learned counsel to look into the charge-sheet, though it was not annexed to the application and whether she is interested in perusing it, but her response was in the negative and she categorically expressed that she is ready to proceed with the application, without the charge-sheet.

Left with no other option, I have perused the charge-sheet with the assistance of learned A.P.P. In the charge-sheet placed on record, the husband of the applicant is arraigned as accused No.1 whereas, the applicant is charge-sheeted as accused No.2 with one Atul Tawde being charged as accused No.3. The charge-sheet also include Gangster Ravi Pujari, who is shown as absconding along with Anil Babulal Ved Mehta.

14. The perusal of the charge-sheet reveals that on 02/11/2017, the complainant, Mr. Radheyshyam Mopalwar (IAS) approached the Anti Extortion Cell, Crime Branch, Thane, and reported that he was acquainted with Satish Mangle, since he was a detective by

profession and he had acted as a mediator in the matrimonial discord between himself and his wife. He reported to the police that Satish Mangle was demanding huge sum of money from him under the pretext of being in possession of video clip, exposing his alleged corruption in government service and the amount was being demanded from the complainant, for a consideration that the said clip will not be made viral. He was also threatened that if the money was not paid, harm would be caused to him and his daughter.

15. On 01/08/2017, Satish Mangle is alleged to have telecasted one false clip on T.V. Channel ABP Maza consisting of defamatory and false version in respect of deeds of the complainant. The complainant alleges that the husband of the applicant, in conspiracy with others, was also meeting various political leaders and causing harm to his reputation by referring to various accusations. He had also made applications to the CBI, ED, Income Tax Department, Anti Corruption Bureau and also to the State Government, seeking enquiry into the false allegations and even he had protested against his alleged corruption in Mantralaya. The complainant allege that in order to save himself from disgrace, Satish Mangle demanded a sum of Rs.10 crores and, thereafter, Rs.7 crores by way of extortion money, out of which, he was asked to part, a sum of Rs.1 crore on 02/11/2017 by delivering the same at his house with a threat that if the demand is not satisfied, he would be killed.

In the background of the aforesaid allegations, he requested investigation by police.

16. On the said complaint being received, which *prima facie* made out a non-cognizable offence of extortion, Sr. P.I. Pradeep Sharma initiated the investigation and comprised a team, which included Police Inspector Kothmire and others and a trap was led by preparing a pre-trap panchanama, by visiting the house of Satish Mangle at Dombivli. The trap proceedings recorded, the incident of applicant receiving an amount of Rs.1 crore and, on executing the panchanama, he was brought to the office of the Anti Corruption Bureau. This resulted in registration of subject C.R., in which the present applicant, the wife of Satish Mangle is also arraigned as an accused and came to be arrested.

17. With the assistance of learned A.P.P., I have perused the material compiled in the charge-sheet against the present applicant and this include the statements of Cling Ganshyam Mishra, recorded under Section 164 of the Cr.P.C., who states that he established contact with the complainant at the instance of Satish Mangle. He states that on 23/10/2017, he along with the complainant and two others reached the Toll Naka, Thane where Satish Mangle along with his wife Shraddha (applicant), Anil Ved Mehta and some other people had already reached there. At that time, Satish Mangle raised a demand of Rs.10 crores with the complainant and threatened him that on failure to do so, he will

make the video clip viral. He refers to the negotiations that took place on the spot, where it was agreed that they would further negotiate in Shangrila Resorts, where a room was booked. He also narrates the subsequent events, which took place in Shangrila Resorts, where the applicant arrived along with her husband and co-accused Anil Ved Mishra and in Room No.205 negotiations took place between the complainant and Satish Mangle in the presence of the applicant. The applicant is specifically accused of reiterating the demand and telling the said witness to comply with the directions of her husband. The witness also states that on the next day, he received a phone call from the mobile number of Shraddha i.e. the present applicant and a demand of Rs.3 crores was raised by her husband.

18. Another witness, whose statement is compiled in the charge-sheet also refer to the presence of the applicant along with her husband, when the demand was raised on the complainant and, at that time, Atul, the brother-in-law of Satish Mangle was also present. This witness has also reiterated the happenings in Room No.205, which took place in the presence of the applicant. The said statement also find corroboration in the statements of Manisha Mopalwar, wife of the complainant and Prashant Bhise recorded under Section 164 of the Cr.P.C.

19. Apart from this, the confessional statement of accused No.1 Satish Mangle also implicates the present applicant, who has

stated that his wife and co-accused Anil Ved Mehta also threatened the complainant by remaining present in Room No.205 of Shangrila Resorts to make the payment, as demanded, or else threatened him to face dire consequences. He has also stated that whatever talks had taken place with Gangster Ravi Pujari, he has apprised his wife, her brother Atul and friend Anil Ved Mehta of the said conversation. He has also stated that out of the money received by way of extortion, he was to share it with co-accused Atul and Anil Ved Mishra, since they were helping him in the whole episode. Similarly, the confessional statement of Atul Tawde also implicate the present applicant as an active participant in the entire episode of extortion.

20. The aforesaid material compiled in the charge-sheet clearly points out the role played by the applicant in the entire episode, but unfortunately since learned counsel for the applicant has not given it a thought to look into the material collected against her pursuant to the FIR being lodged, it can be assumed that she is unaware of the said material. The learned counsel was only harping on the issues irrelevant in considering the bail application, on parameters of Section 439 of the Cr.P.C., being gravity of accusations, flight risk and possibility of tampering the prosecution case.

21. Learned counsel for the applicant has placed certain transcript of audio conversations and sought to argue on the basis

of the same. Mr. Ponda, the learned counsel for the complainant however submits that the transcripts have been brought on record during the course of trial through several witnesses and he would submit that one of the witnesses have admitted the said transcripts, but since I am quite conscious of the fact that this is an application for release of the applicant on bail, I do not deem it fit to look into the evidence, which is a matter of trial and particularly, when the trial is on going, though Mr. Ponda has tendered a compilation of notes of evidence of the 31 witnesses examined by the prosecution, which include the crucial witnesses to establish the case of the prosecution. I do not intend to go into the merits of the trial, since the evidence of prosecution witnesses is recorded and any observations, may cause prejudice to the prosecution or the applicant since, the statement of the accused under Section 313 of the Cr.P.C. is yet to be recorded and even the learned Judge has not yet appreciated the evidence before him.

22. Considering the material contained in the charge-sheet, which clearly indicate the involvement of the applicant and on hearing learned A.P.P., the request of the applicant to release her on bail cannot be granted. In any case, the trial is at the fag end and since learned A.P.P., at the outset, has made a statement that the trial shall be concluded at the earliest, I deem it expedient to request the City Civil & Sessions Court, Mumbai, dealing with Special MCOCA Case No.18 of 2018 to conclude the proceedings expeditiously and, in any case, not later than 30/09/2022, subject

to the stipulation that learned counsel for the accused including that of the applicant shall assist learned Judge in its expeditious conclusion.

23. The application is rejected.

[SMT. BHARATI DANGRE, J.]