

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

CRIMINAL BAIL APPLICATION NO.2695 OF 2021

Amar Ashok Tushambar

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Amresh B. Sharma, Advocate for Applicant.
- Mr. P. H. Gaikwad, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 31st JANUARY 2022

(through video conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.117/2020, dated 01/11/2020, registered with Srinagar Police Station, Thane, under sections 387, 452, 323, 504, 506 r/w 34 of the Indian Penal Code and under sections 4 and 25 of the Indian Arms Act. The Applicant was arrested on 01/11/2020 and since then he is in custody.

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2. Heard Mr. Amresh B. Sharma, learned counsel for the Applicant and Mr.P. H. Gaikwad, learned APP for the State.

3. At the outset, the learned APP makes a positive statement that 7 witnesses are already examined and only 1 witness has remained to be examined. The trial is likely to be concluded within one week from today. In spite of that, learned counsel for the Applicant insists on arguing on merits and therefore I have heard the matter on merits. I have perused the charge-sheet.

4. The FIR is lodged by one Ravindra Rathod. He has stated that he has a furniture shop at Wagle Estate, Thane. On 01/11/2020, at about 03.15 p.m. when he was in the shop, the present Applicant whose specific name is mentioned in the FIR, along with his associates came to his shop. At that time, the Applicant demanded Rs.2,000/- per month as extortion money. He threatened that if the money was not paid, then the informant's vehicle carrying goods would not be permitted to enter the area. He also threatened that he would assault the informant by sending his associates. The informant refused to pay extortion money. The Applicant raised a sword on the

informant and threatened him again. In the meantime, the other associates of the Applicant surrounded the informant and started beating him. At that time, the workers in the shop, tried to intervene. Neighbouring shopkeepers shut their shops out of fear. They were also threatened by the Applicant. The informant immediately called his father telephonically who approached police station and brought police at the spot. The Applicant was arrested on the spot itself. Two associates managed to escape from the scene. On this basis, the FIR is lodged.

5. Learned counsel for the Applicant submitted that the recovery panchanama mentions a sword, but there is no narration in the panchanama as to how the sword was produced. He submitted that there were two mobile phones on the person of the Applicant. The recovery of sword is doubtful. Though there is CCTV footage panchanama, it is not clear whether that CCTV footage was of that year or earlier year. There is mistake in date. Based on these submissions he submits that that the Applicant be released on bail.

6. Learned APP relied on CCTV footage, statement of the first informant, eyewitnesses as well as recovery panchanama and CCTV footage. He submitted that as many as 13 antecedents are against the present Applicant of serious nature.
7. I have considered these submissions. As far as the main incident is concerned, the informant's statement is sufficiently corroborated by the statement of witnesses, who were present in the shop i.e. Ravikant Ram, Nagendar Rajbhar, Ahmad Khan, Bablukumar Prasad. There is a statement of one neighbour Tauhit Rafiq Khan, who has also supported the submission that the neighbouring shops owners were threatened. This is the direct evidence.
8. Thus there is sufficient corroboration to the incident as narrated by the first informant. As far as recovery of sword is concerned, the recovery panchanama does mention that the sword was recovered when the Applicant was arrested.

However, if some narration is missing, it is a question which needs to be asked to the Investigating Officer during the trial. It is only a corroborative piece of evidence. The trial is likely to conclude very soon. As far as CCTV footage is concerned, the panchanama mentions the entire incident, which is covered in the CCTV footage. The discrepancy in the date is again a matter of trial. The Applicant was free to cross-examine the witnesses in that behalf. The trial has reached its end and only one witness has remained to be examined. The Applicant has not annexed a single deposition of any of the witnesses. In this background, no case for bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)