

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 1830 OF 2022

Harshal Rajaram Kharabi ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Shailesh Chavan, for the Applicant.
Mr. P. H. Gaikwad, APP for the State.
Mr. Ranjeet Patil, for the Intervener/Respondent no.2.
Mr. Gorakh Gadilkar, P.C., Chakan Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED : 8th JULY, 2022

ORDER:-

1. The applicant apprehends arrest in CR No.122/2022 registered with Chakan Police Station, for the offences punishable under Sections 384, 385, 386, and 387 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").
2. The allegations against the applicant and co-accused Aniket Khalkar, is that the first informant Santosh Gupta deals in the business of collecting scrap from the factories of Chakan MIDC. In the year 2018, he purchased the scrap at Flush Electronic Company. While the vehicles carrying the scrap were leaving the gate of the company, few persons intercepted those vehicles. The applicant demanded the first informant to pay a sum of Rs.15,000/- per month for carrying out the business of

purchase of the scrap from the factories in Chakan MIDC area. The first informant claimed to have paid the said amount per month to the applicant. Thereafter co-accused Aniket Khalkar demanded the extortion amount. Initially a sum of Rs.15,000/- per month was paid to the Aniket. Later on, the co-accused Aniket Khalkar demanded Rs.1/- per kg. of scrap purchased by the first informant. As the applicant and co-accused continued to give threats and extort money from the first informant, the latter filed the report leading to registration of FIR no.122/2022.

3. The learned Counsel for the applicant submitted that a false report has been lodged on account of the disputes in the business. The co-accused Aniket Khalkar was released on bail by the learned Sessions Judge. The allegations against the applicant are identical. Yet, the applicant was not given the same dispensation. It was further submitted that the first informant appeared before the learned Sessions Judge and submitted that the report was lodged on account of misunderstanding in the business deals.

4. The learned APP submitted that three crimes have been registered against the applicant for bodily offences. The applicant has threatened the first informant and made him to change the

version. Therefore, the applicant does not deserve the exercise of discretion.

5. The first informant has appeared and filed an affidavit. In the affidavit, the first informant asserts that the FIR was lodged due to misunderstanding. At this stage, the Court may not be required to delve into the correctness of the version of the first informant in the affidavit, which is sought to be filed in support of the claim of the applicant for pre-arrest bail.

6. On perusal of the allegations in the FIR, the submissions on behalf of the applicant that the role attributed to the applicant is identical to that of the co-accused, who is released on pre-arrest bail, appears to carry conviction. In fact, the allegations against the co-accused are relatively serious in the sense that the co-accused allegedly demanded extortion at the rate of Rs.1/- per kg. scrap purchased by the first informant. *Prima facie* it seems difficult to draw a distinction between the role attributed to the applicant and the co-accused.

7. The learned APP was justified in canvassing a submission that three offences have been registered against the applicant. However, in backdrop of the nature of the accusation the fact that the co-accused has been granted benefit of pre-arrest bail cannot be lost sight of.

8. The submission on behalf of the prosecution that the applicant has attempted to exert pressure on the first informant to change the version and thus possibility of tampering with the evidence and threatening the witnesses cannot be rule out, can be taken care of by imposing stringent conditions.

9. Hence, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) In the event of arrest of applicant – Harshal Rajaram Kharabi in CR No.122/2022, he be released on bail on furnishing a P. R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount.
- (iii) The applicant shall attend Chakan Police Station on every Sunday in between 10.00 am. to 1.00 pm. for the period of three months or till filing of the charge-sheet, whichever is earlier.
- (iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.
- (v) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vi) The applicant shall not enter the limits of Mhalunge Police Station for the period of six months from today.

[N. J. JAMADAR, J.]