

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2108 OF 2022**

Nasir Shaikh s/o Salim Mohammed .. Applicant
Shaikh

Versus

The State of Maharashtra .. Respondent

**WITH
INTERIM APPLICATION (ST) NO.13411 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.2108 OF 2022**

Chaitanya Mehta .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

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Ms.Anjali Awasthi for the Applicant.

Ms.A.A.Takalkar, A.P.P. for the State/Respondent.

Mr.Rickin Dang i/b Ganesh & Co. for the Intervenor.

PI Sanjay Taralgatti attached to DCB, CID, Mumbai, present.

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**CORAM: BHARATI DANGRE, J.
DATED : 18th AUGUST, 2022**

P.C:-

1. Learned A.P.P., in order to justify invocation of Section 384 of IPC, has invited my attention to the transcripts of conversation between the Manager of the complainant and the present applicant, which form part of the charge-sheet filed against the other accused persons.

When I confronted the learned A.P.P. about the ingredients of Section 384 of IPC being made out on the basis of the conversation alleged to have taken place between the applicant and one Prakash Gawade, it can be discerned that he was demanding an amount of Rs.2.5 crores, but as far as the offence of extortion is concerned, it contemplates putting a person in fear of an injury to that person or to any other person and, thereby, inducing the person so put under fear to deliver the property or valuable security in order to attract the offence of 'extortion'.

2. In any case, the applicant is accused of Section 384, which on conviction would warrant imprisonment which may extend to three years or with fine or with both. The said offence is non-bailable. Apart from this, he is also accused of Section 385 of IPC, which also requires similar ingredients of

putting a person in fear and in any case, offence under Section 385 is bailable offence. As far as the accusations under Section 120-B of IPC are concerned, except the telephonic conversation, there is no material to demonstrate an agreement between co-accused persons, *prima facie*, establishing the charge of criminal conspiracy.

3. In the wake of the *prima facie* view as above, the Investigating Officer, PI Sanjay Taralgatti attached to Anti Extortion Cell, DCB, CID, Mumbai, who is present in the Court, states that in the light of the decision of the Hon'ble Supreme Court in the case of ***Arnesh Kumar Vs. State of Bihar & Anr.***¹ and the the guidelines issued by the Director General of Police, he shall issue a notice to the applicant under Section 41A of Cr.P.C and upon issuance of the notice, he shall follow the procedure under the said provision.

4. With the aforesaid statement being made, the application is disposed off alongwith the Interim Application.

(SMT. BHARATI DANGRE, J.)

¹ (2014) 8 SCC 273