



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.383 OF 2024**

Touheed Jafar Ali @ Tauhid Jafar Ali Khan	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Shekhar Singh, for Applicant.
Mr. Prashant Jadhav, APP for State.
PI Jyoti Hibane, Santacruz Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 7 MAY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.940 of 2023, registered with Santacruz Police Station for the offences punishable under Sections 419, 420, 306, 384 of the Indian Penal Code and Sections 66C and 66B of the Information Technology Act, 2000.
3. The first informant is the wife of Mansingh Pawar (the deceased), who was working at a Gurudwara at Santacruz as a cook since six months prior to the alleged occurrence. On 8 August 2023, the deceased asked the first informant to pledge gold and transfer money to him. According to the first informant, she pledged the gold which the family had and transferred a sum of Rs.22,000/- to the deceased. On 9 August 2023, when the first informant called the deceased, he did not pick up the call. The nephew of the first informant reached the Gurudwara. It transpired that

the deceased had died by suicide.

4. During the course of investigation, it transpired that on 9 August 2023 between 9.28 a.m. to 8.50 p.m., the deceased had received calls and messages from three mobile numbers. The persons who called the deceased threatened to make the objectionable videos of the deceased viral and extorted a sum of Rs.56,000/-. Those persons impersonated themselves as Cyber Cell Police, New Delhi and threatened to prosecute the deceased. The first informant alleged, unable to bear the harassment, the deceased died by suicide.

5. Learned Counsel for the Applicant submitted that there is no material to connect the applicant with the alleged offences. The prosecution has implicated a person who was holding mobile Nos.*****8341, *****6339 and *****6573, as an unknown accused. The amount which was allegedly transferred from the account of the applicant was credited to the account bearing No.6248241243 maintained with Kotak Mahindra Bank. The said person was subsequently identified as Karan Kumar. Neither the applicant is connected with the mobile phones from which the deceased was allegedly threatened, nor the money has been credited to the account of the applicant. Thus, no case of abetment to commit suicide, or extortion has been made out against the applicant.

6. In opposition to this, learned APP submitted that when the Police called the numbers from which the calls and messages were received by the deceased, the

location of the phone was found at the place of the applicant. On 6 November 2023, the mobile phone of 'Oppo' make with IMEI No.863903056884357, 863903056884340 was recovered from the possession of the applicant. When the said mobile phone was opened in the presence of the child in conflict with law, it transpired that the child in conflict with law, the applicant and the co-accused had extorted money by threatening people to make the objectionable videos viral and implicate them in prosecutions. It was submitted that the applicant is a part of a large racket, which has been indulging in the offences of extortion.

7. Prima facie, it appears that there is no material to connect the applicant with the mobile numbers from which the deceased was allegedly called. Nor is it a case that the amount which was transferred from the account of the deceased came to be credited to the account of the applicant. The transcript of the Whatsapp messages (page 60) was from a mobile phone which purportedly stands in the name of an unknown accused. At best, even if the prosecution case is taken at par, only case of extortion can be said to have been made out.

8. The material on record, however, does not indicate that there was any direct or proximate act on the part of the applicant which constituted either instigation or intentional aid in the commission of the suicide by the deceased. In these circumstances, whether the applicant can be roped in for the offence punishable under Section 306 of the Penal Code, appears to be debatable.

9. The learned APP submitted that the applicant is a resident of Rajasthan and there is a possibility of tampering with evidence and fleeing away from justice and commission of identical offences, if released on bail.
10. The apprehension on the part of the prosecution can be taken care of by imposing conditions.
11. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Touheed Jafar Ali @ Tauhid Jafar Ali Khan be released on bail in C.R.No.940 of 2023 registered by Santacruz Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (iii) The applicant shall mark his presence before Santacruz Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.
- (iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.
- (v) On being released on bail, the applicant shall furnish his contact number

and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)