IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 639 OF 2024

Zakir Hasen Sayyed @
Zakir Hussain Safdar Ali Sayyed & Ors. ..Applicant

Versus

The State of Maharashtra ..Respondent

WITH
INTERIM APPLICATION (ST) NO. 5169 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 639 OF 2024

Salim Mohammed Gaus Shaikh ..Intervenor

In the matter between:

Zakir Hasen Sayyed @
Zakir Hussain Safdar Ali Sayyed & Ors. ..Applicant

Versus

The State of Maharashtra ..Respondent

Mr. Troy Patel a/w. Nikesh B. Yadav for Applicants.

Mr. C. D. Mali, APP for State/Respondent.

Mr. Arkam Shaikh a/w. Jainesh S. Mishra a/w. Prem Pandey for Intervenor.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 7 MARCH 2024

P.C. :-

1. The Applicants are seeking anticipatory bail in connection with C.R.No.251 of 2024 registered at Malwani Police Station, Mumbai, on 20.02.2024, under Sections 384, 385, 506, 120B r/w. 34 of the Indian Penal Code.

2. Heard Mr. Troy Patel, learned counsel for the applicants, Mr. Mali, learned APP for the State and Mr. Arkam Shaikh, learned counsel for the Intervenor.

3. The Applicant Nos.2 and 3 are the sons of the applicant No.1. The F.I.R. is lodged by one Salim Shaikh. He has stated that, since January 2021, he has started a small business of repairs, constructions, constructing small rooms etc. On 16.01.2021, the applicant No.1 contacted him telephonically and called the informant to meet him. The informant went to his office. The applicant No.1 told the informant that nothing took place in that area without the applicant No.1's wish and consent. He straightaway asked for extortion money. The informant under this

fear, transferred Rs.15000/- on 22.01.2021 through UPI on the applicant No.1's account. Subsequently, the applicant No.1 went on demanding periodical extortion money and the informant went on paying that amount. In all, he paid Rs.8,95,000/- to the applicant No.1 on his account. The F.I.R. further mentions that, both the other applicants i.e. the Applicant Nos.2 and 3 also started demanding money and some amount was transferred in their account by the informant under threats. In all, he has transferred Rs.11,14,500/- to all these three applicants together. Ultimately, getting fed up, he lodged the F.I.R.

4. Learned counsel for the applicants submitted that the Applicant No.3 was working with the informant and, therefore, the amount which was transferred to the applicants' account was in that connection. On one occasion, the applicant No.1 had paid Rs.25000/- and on another occasion, he had paid Rs.25000/- to the informant. This shows their business relationship. The applicant No.1 had helped a lady to lodge an F.I.R. The informant was under the impression that the Applicant No.1 was making false allegations and was trying to implicate the informant in some

case and, therefore, out of that grudge the informant has implicated all these applicants in this particular case.

5. Learned counsel for the informant opposed this submissions. Learned APP also opposed these submissions and produced the investigation papers before me. Both of them submitted that, large sum of money is transferred by the informant in the applicants’ account. This cannot be accepted except by the theory that it was an extortion amount. Learned counsel for the informant submitted that, there was no business relationship and there was no question of making payment for the alleged work done by the applicant No.3 for the informant. There was no reason for the informant to deposit any amount in the applicants’ account; except by way of making payment of extortion.

6. I have considered these submissions. The fact that the informant had made that payment is supported by the bank statement. All those transactions are reflected in the bank account. Apart from that, there are statements of the witnesses. They are Uday Kumar, Moinuddin and Jamal Anwar Shaikh. Udaykumar has

specifically stated about the incident dated 26.01.2022 when the informant and his workers were carrying out some repair works in his house. At that time, the applicant No.2 Amir had come there and straightaway told the informant to make payment of extortion money and that, he was sent by the applicant No.1. The informant had told him that he did not have money at that time. The Applicant No.2 had threatened him in the presence of this witness Udaykumar. After that the informant had sent money on the account of the applicant No.2 through UPI transfer.

7. The witness Moinuddin has stated that, all these three applicants used to call this witness telephonically and used to tell him to remind the informant to make payment of extortion amount.

8. The witness Jamal has similarly stated that, when the informant was carrying out the repairing works, the applicant Nos.2 and 3 used to come there and used to demand extortion money and used to threaten the informant. Thus, there is sufficiently strong material against the applicants. The offence is

serious. Their custodial interrogation is necessary. No case for protection U/s.438 of the Cr.p.c. is made out.

9. The Application is rejected. With the rejection of the anticipatory bail application, the interim application for intervention is also disposed of.

(SARANG V. KOTWAL, J.)