

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1319 OF 2013

IN

CRIMINAL APPEAL NO.1074 OF 2013

MEHUL CHATURBHAI PATEL

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ORS.

)...RESPONDENTS

WITH

CRIMINAL APPLICATION NO.1321 OF 2013

IN

CRIMINAL APPEAL NO.1075 OF 2013

AMRUTBHAI HARJIVANDAS PATEL

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ORS.

)...RESPONDENTS

Shri Shekhar Ingawale, Advocate for the Applicants / Appellants,
in Criminal Application Nos.1319 of 2013 and 1321 of 2013.

Shri Prashant Patil, Advocate for Respondent Nos.2 to 13 in
Criminal Application Nos.1319 of 2013 and 1321 of 2013.

Ms.A.T.Javeri, APP for the Respondent – State.

WITH

CRIMINAL APPEAL NO.39 OF 2014

WITH

CRIMINAL APPEAL NO.40 OF 2014

WITH

CRIMINAL APPEAL NO.247 OF 2014

WITH

CRIMINAL APPEAL NO.563 OF 2014

**WITH
CRIMINAL APPEAL NO.564 OF 2014
WITH
CRIMINAL APPEAL NO.565 OF 2014
WITH
CRIMINAL APPEAL NO.782 OF 2014
WITH
CRIMINAL APPEAL NO.894 OF 2013
WITH
CRIMINAL APPEAL NO.904 OF 2013
WITH
CRIMINAL APPEAL NO.905 OF 2013
WITH
CRIMINAL APPEAL NO.907 OF 2013
WITH
CRIMINAL APPEAL NO.1045 OF 2013**

Shri Prashant Patil, Advocate for the Appellants in Criminal Appeal Nos.39/14, 40/14, 247/14, 564/14, 782/14, 904/13 & 1045/13.

Shri Prashant Patil i/b. Shri Sandip Babar, Advocate for the Appellants in Criminal Appeal Nos.563/14 and 565/14.

Shri Prashant Patil i/b. Shri K.S.Patil, Advocate for the Appellant in Criminal Appeal No.894/13.

Shri Prashant Patil i/b. Shri Arun Pawar, Advocate for the Appellant in Criminal Appeal No.905/13.

Shri Prashant Patil i/b. Shri Shrikant Patil, Advocate for the Appellant in Criminal Appeal No.907/13.

Ms.A.T.Javeri, APP for the Respondent – State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 18th DECEMBER 2015.

P.C. :

1 Both these applications, though arise out of different appeals, can be conveniently disposed of by this common order. The appellant in Criminal Appeal No.1074 of 2013 is the authorized representative of one courier company by name M/s.Patel Ishwarlal Bechardas and Co. The appellant in Criminal Appeal No.1075 of 2013 is the authorized representative of M/s.Amrut Kantilal and Co. The property in possession of these courier companies was robbed, in respect of which a criminal case was registered and a number of persons were arrested and prosecuted. The prosecution resulted in conviction of 12 of the accused persons out of the 13, who were prosecuted. The property robbed was recovered in the course of investigation, as per the version of the investigating agency, and the same was also produced before the trial court during the trial. The trial court, however, ordered only a part of the property so recovered, to be returned to one of the appellants i.e. the authorized representative of M/s.Patel Ishwarlal Bechardas & Co. The other property, which

also the said courier company was entitled to possess, was ordered to be forfeited to the State, after the expiry of the appeal period. The property, which, as per the appellant in Criminal Appeal No.1075 of 2013, the said M/s.Amrut Kantilal & Co. was entitled to possess, was also ordered to be forfeited to the State by the trial court. Being aggrieved by the orders passed by the trial court regarding the disposal of the properties, these two appeals under Section 454 of the Code of Criminal Procedure (Code) have been filed.

2 The appeals filed by the convicted accused persons are also pending. As far as possible, the present appeals should be decided along with the appeals filed by the accused persons challenging their convictions.

3 I have heard Shri Shekhar Ingawale, the learned counsel for the appellants. I have also heard Shri Prashant Patil, the learned counsel for respondent nos.2 to 13.

4 Since it is desirable to hear the appeals along with the appeals filed by the convicted accused persons, the hearing of these appeals will take sometime. Shri Ingawale submits that during the pendency of these appeals, an interim order handing over the custody of the property in question to the appellants be passed. He points out that during the trial, the property had been handed over to the authorized representatives of the courier companies by an order passed by the court of Sessions in revision applications, which had been filed challenging the order passed by the Magistrate refusing to hand over the interim custody of the said property to the representatives of the appellants.

5 In my opinion, it would be proper to allow the applications by directing the interim custody of the property in question to be handed over to the authorized representatives of the appellants, on certain terms and conditions.

6 So far as Criminal Appeal No.1074 of 2013 is concerned, apart from the property that has been asked for, the

appellant claims to be entitled to another additional sum of Rs.11,78,380/- also. The appellant has not sought for the return of the said property in this appeal, as that property has already been ordered to be returned to the authorized representative of the appellant, by the trial court itself.

Needless to say, that the appellant in Criminal Appeal No.1074 of 2013 shall be entitled to have custody of that property in accordance with the order passed by the trial court.

The same be handed over to the authorized representative of M/s.Patel Ishwarlal Bechardas & Co. in accordance with the order passed by the trial court.

7 Under the circumstance, I am inclined to allow the applications.

OPERATIVE ORDER IN CRIMINAL APPLICATION NO.1319 OF 2013

1. Pending the hearing and final disposal of the appeal, the amount of Rs.43,18,720/- be returned to the duly authorized representative of M/s.Patel Ishwarlal Bechardas & Co., on his giving an undertaking – for and on behalf of

said M/s.Patel Ishwarlal Bechardas & Co. – and on his executing a bond with one surety in like amount, to produce an equivalent sum of money before this court, as and when directed by this court, along with interest at the rate of 8 percent per annum, from the date of actual receipt of the amount till the date of its actual production or deposit in this court.

The authorized representative should be specifically authorized by M/s.Patel Ishwarlal Bechardas and Co. -

- i) to give an undertaking
- ii) to execute the necessary bond, and,
- iii) to receive the amount.

2. The amount of Rs.11,78,380/- be returned to the same authorized representative without requiring him to execute any bond.

OPERATIVE ORDER IN CRIMINAL APPLICATION NO.1321 OF 2013

1. Pending the hearing and final disposal of the appeal, the amount of Rs.39,06,290/- be returned to the duly authorized representative of M/s.Amrut Kantilal and Co., on his giving an undertaking – for and on behalf of said

M/s.Amrut Kantilal and Co. – and on his executing a bond with one surety in like amount, to produce an equivalent sum of money before this court, as and when directed by this court, along with interest at the rate of 8 percent per annum, from the date of actual receipt of the amount till the date of its actual production or deposit in this court.

The authorized representative should be specifically authorized by M/s.Amrut Kantilal and Co. -

- i) to give an undertaking
- ii) to execute the necessary bond, and,
- iii) to receive the amount.

8 The applications are disposed of accordingly.

9 The appeals be listed for '**Final Hearing**' in the month of February 2016, along with the appeals filed by the convicted accused persons.

(ABHAY M. THIPSAY, J.)

CERTIFICATE

**Certified to be true and correct copy of the original
signed Judgment /Order.**