

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 276 OF 2019

Rafik Shukur Atar

..Appellant

v/s.

The State of Maharashtra and Anr.

..Respondents

Mr. Gaurav Parkar for Appellant.

Mr. S.R. Agarkar- APP for the State.

Mr. R.B. Chankoti, PSI -EOW, Solapur City.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 9th April 2019.

P.C.

1. This is an appeal under Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant herein is arrested on 30th January 2018 in C.R. No. 222 of 2015 registered at Sadar Bazar Police Station and the same was being investigating by Economic Offence Branch, Solapur City. The investigation is completed and the charge-sheet is filed on 2nd of June 2018. It is the case of the prosecution on 6th June 2015 Manisha Fule i.e. (who also happens to be an accused) lodged a report at the police station alleging therein that she was officiating as Assistant Commissioner in Social Welfare Department at Solapur. There were several schemes floated by the Central Government for giving scholarship to the students. The said schemes were being implemented through the Social Welfare Department. It is for

upliftment of the students belonging to the Scheduled Castes and Scheduled Tribes. She has further disclosed to the police that there was huge misappropriation in implementing the said schemes. And the beneficiaries were deprived of benefits extended to them. There was conspiracy by several people including public servant. The appellant herein was a part of the conspiracy. The appellant herein has misappropriated the huge amount almost to the tune of Rs. 40,10,692/- to his own account and transferred some of the amounts to his family members accounts including wife, son and daughter-in-law. Similarly, the appellant had transferred certain amounts to his business account and an amount of Rs. 15.93 lakhs was transferred in the name of his son itself and Rs. 38 lakhs in the account of his wife etc.

2. According to the prosecution the students belonging to the Scheduled Tribe and Scheduled Caste were deprived of the benefits extended to them. Learned counsel for the appellant submits that amount of Rs. 1,41,21,725/- has been deposited by the co-accused. Learned APP upon instructions submits that there are no properties to the credit of the present appellant or his family members and that they are engaged in labour work. The learned counsel for the appellant submits that the appellant had only received commission and that they were used by accused person who has deposited the amount, his properties are attached. The said accused are also being tried under the provisions of the Prevention of Corruption Act, 1988. The EOW has attached the properties of principal accused Amir M. Tamboli, he has been enlarged on bail by

the Division Bench of this Court vide order dated 26th September, 2017. The said accused Amir Tamboli had given a list of ten properties and details of properties all of them attached by the EOW. EOW has also attached the properties belonging to the father of Amir Tamboli. The value of the properties attached from Amir Tamboli is more than two Crores.

3. Taking into consideration, the fact that the appellant herein has been in custody for more than two years and that the investigation is completed and charge-sheet is filed, his wife and son have surrendered before the Special Court on 4th of April 2019 and they are in Magistrate Custody. The appellant herein deserves to be enlarged on bail. Hence the following order.

ORDER

- i) The Criminal Appeal is allowed.
- ii) The appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.
- iii) The appellant shall attend the police station as and when called.
- iv) The appellant shall not leave the jurisdiction of Barshi or Solapur District till the conclusion of the trial.

(SMT. SADHANA S. JADHAV, J)