

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION No. 480 OF 2019

Sameer Sanjay Marne @ Samya

...Petitioner

Versus

State of Maharashtra

...Respondents

.....
Mr. Priyal G. Sarda for the Petitioner.

Mr. A.R. Patil, APP for the Respondent-State.

.....

**CORAM: MRS. MRIDULA BHATKAR, J.
DATED: 01 FEBRUARY, 2019**

P.C.:

1. Upon urgent mentioning, taken on production board.
2. Rule. Rule made returnable forthwith. By consent of the parties, the Petition is heard finally and disposed of at the stage of admission.
3. By this Petition, the petitioner/accused prays that the Sub Registrar of Saswad be directed to execute the Power of Attorney of the petitioner/accused in Yerwada Central Prison, Pune as per section 33 of the Registration Act, 1908 (hereinafter referred to as "the said Act").

4. The learned APP submits that civil writ should have been filed under civil writ jurisdiction.
5. The learned counsel for the petitioner/accused submits that the orders are sought in favour of the accused, who is detained in Yerwada Central Prison, Pune and, therefore, the present petition is filed.
6. The issue involved in this petition is very short. Section 33 of the said Act pertains to execution of the Power of Attorney and the presence of the persons while executing such Power of Attorney.
7. Section 33 of the said Act states as follows :

“33. Power-of-attorney recognizable for purposes of section 32.—(1) For the purposes of section 32, the following powers-of-attorney shall alone be recognized, namely:—

(a) if the principal at the time of executing the power-of-attorney resides in any part of [India] in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides;

Provided that the following persons shall not be required to attend at any registration office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, namely:—

(ii) persons who are in jail under civil or criminal process; and...”.

8. Thus, the Sub Registrar, Saswad may appoint some responsible officer or he himself may visit to Yerwada Central Prison after fixing a date with the Superintendent of Yerwada Central Prison for execution of the Power of Attorney of the petitioner/accused. If any responsible officer is appointed, then he should satisfy himself that the person, who is executing the Power of Attorney, is the petitioner/accused and he voluntarily executed. All the charges and fees as prescribed under the said Act are to be paid by the petitioner/accused to the office of Sub Registrar. The transportation charges are to be paid by the petitioner /accused.

9. Rule made absolute accordingly.

10. Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)