

Tandale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2806 OF 2019

Balwant Rai Batra & Anr.

.... Petitioners.

Vs.

The State of Maharashtra & Anr.

.... Respondents.

Mr. Samir Singh for the Petitioners.

Mr. Amit Palkar, APP for the Respondent No.1-State.

Mr. H. S. Venegavkar for the Respondent No.2-CBI.

CORAM : A. S. GADKARI, J.

DATE : 24th FEBRUARY, 2021.

PC.:-

Petitioners have impugned Order dated 26th October 2018 passed below Exh.123, in C.B.I Special Case No.70 of 2012, rejecting their Applications for return of properties, more particularly mentioned in the schedule annexed to the said Applications (Page Nos.28 to 35 to the present Petition).

2. Heard Mr. Singh, learned counsel for petitioners, Mr. Palkar, learned A.P.P. for respondent No.1-State and Mr. Venegavkar, learned counsel for respondent No.2-CBI. Perused documents annexed to the Petition.

3. Petitioners are parents of original accused No.1 Vivek Balwant Rai Batra, who is prime accused in CBI Special Case No. 70 of 2012.

During the course of investigation, the respondent No.2 seized locker No.368 held by the petitioners, located at Bank of Punjab, Karnal Branch, State of Haryana. Accordingly, the valuables and other articles kept therein were seized. After filing of the charge-sheet, petitioners herein filed an Application below Exh.123 for return of seized property before the Sessions Court at Mumbai. Respondent No.2-CBI filed its reply dated 19th July 2016. In para No.5 of the said reply, it is categorically admitted that, the properties claimed by the petitioners are not part of the charge-sheet and are un-relied properties. Though, the Trial Court has adverted to the said admission given by the respondent No.2-CBI in para No. 4 in its impugned Order dated 26th October 2018, it rejected the said application on the ground that, at the inception the CBI had claimed that, the property in question was involved in the said crime.

4. Mr. Venegavkar, learned counsel for the respondent No.2-CBI, on instructions reiterates the stand of CBI as mentioned in para No.5 of reply dated 19th July 2016 filed by it before the Trial Court.

5. In view thereof, during the pendency of the said case i.e. C.B.I. Special Case No. 70 of 2012, the property mentioned in prayer Clause No. (b) of the present Petition can be given into the possession of the petitioners, upon their filing an undertaking before the Trial Court that they will produce the said property, if required at the time of trial.

6. The impugned Order dated 26th October 2018, passed below

Exh.123, is accordingly quashed and set aside and the present Petition is allowed in terms of prayer clauses (a) and (b).

7. It is made clear that, the petitioners are at liberty to renew their National Saving Certificate(s), Kisan Vikas Patra Certificate(s) and/or any other Certificate(s) or Fixed Deposit(s) mentioned in the prayer clause (b) of the Petition. Petitioners however will not be entitled to liquidate the said certificate(s) and/or realize the amount without prior permission of the Trial Court.

8. Petition is allowed in the aforesaid terms.

(A.S. GADKARI, J.)