

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

**INTERIM APPLICATION NO. 1039 OF 2021
IN
CRIMINAL APPEAL NO.595 OF 2018**

1. Bhakti Bharat Sawant
 2. Saurabh Bharat Sawant
 3. Akshat Bharat Sawant
- ...Applicants/Appellants

IN THE MATTER BETWEEN :-

The State Of Maharashtra	...Appellant
Versus	
Bharat Jairam Sawant (Since Deceased)	...Respondent

....

Mr. Sumant Deshpande, Advocate for the Applicants.

Mr. S. V. Gavand, APP for the Respondent – State.

CORAM	:	PRAKASH D. NAIK, J.
DATE	:	5th MAY, 2022.

PER COURT:

1. The applicants are seeking return of Rs.12,51,800/- deposited in the bank and de-freezing their bank accounts. The applicants are legal heirs of Bharat Jairam Sawant. He was prosecuted for offence punishable under Section 13(1)(e) r/w Section 13(2) of Prevention of Corruption Act, 1888 (for short “PC Act”). He was acquitted vide judgment and order dated 8th March, 2017. While acquitting him, the trial court was directed that the seized property of Rs.12,51,800/- deposited in the bank with

interest be returned to the accused after appeal period and after confirmation that no appeal is filed. It was also directed that in the event the appeal is filed challenging the order of acquittal, the seized property would be subject to the orders of Appellate Court. It was also directed that the freezed bank accounts of accused, wife and sons be de-freezed after the confirmation of appeal if not filed the case. In case the appeal is preferred, the freezing of the account would be subject to orders of Appellate Court.

2. Bharat Jairam Sawant was also prosecuted by Special Case No.78 of 2010 along with co-accused for offences under Sections 7, 13 (1)(d) r/w Section 13(2) of PC Act. Vide judgment and order dated 31st December, 2013, Bharat Jairam Sawant was acquitted by the Special Judge under the PC Act.

3. The Judgment of acquittal dated 8th March, 2017 passed by the Special Judge (under ACB Act), City Civil and Sessions Court, Gr. Bombay, in Special Case No.90 of 2014 was challenged by the State of Maharashtra by preferring in Criminal Appeal No. 595 of 2018.

4. During the pendency of Criminal Appeal No. 595 of 2018 the original accused Bharat Jairam Sawant had passed away on 8th November, 2020. Vide order dated 4th December, 2020 this

Court had disposed of the appeal as abated on account of death of respondent-convict. The death certificate of Bharat Jairam Sawant was taken on record.

5. The applicant No.1 in this application is the wife of Bharat Jairam Sawant and applicant Nos. 2 & 3 are his sons.

6. Learned Advocate for applicants has submitted that the applicants are legal heirs of Bharat Jairam Sawant. Since the appeal is disposed of as abated, the amount which was directed to be returned to the accused may be returned to the applicants. It is further submitted that the bank account which was freezed during the course of investigation may be de-freezed. The applicants have placed on record the documents to establish their identity viz. aadhar card, pan card, birth certificate etc. The applicants have also filed affidavit dated 26th April, 2022. In the affidavit filed by applicant No.1 it is stated that she is the wife of deceased Bharat Jairam Sawant. She had married to him on 27th March, 1982. Applicant Nos. 2 & 3 are her sons. The applicants are the only legal heirs of Bharat Jairam Sawant. His parents have died. There is no other legal heir to Bharat Jairam Sawant. The applicants are entitled to receive the seized money of Rs.12,51,800/- with interest. The documents i.e. aadhar card, marriage certificate, death certificate of Bharat Jairam Sawant are annexed to the

affidavit. Applicant Nos. 2 & 3 have also filed the affidavits dated 27th April, 2022 stating that the applicants are the only legal heirs of Bharat Jairam Sawant. They have no objection, if the cheque/D.D. of the aforesaid amount be drawn in the name of applicant No.1, who is their mother. Along with affidavit the copies of aadhar card, pan card and birth certificate are annexed in support of their submissions that they are legal heirs of deceased Bharat Jairam Sawant.

7. Learned APP submitted that the appeal preferred by the State of Maharashtra has been already disposed of due to death of respondent No.1 therein Bharat Jairam Sawant.

8. From the documents on record and the affidavits placed on record, it is apparent that the applicants are the legal heirs of Bharat Jairam Sawant was prosecuted for offence under the PC Act and the case has resulted in acquittal. In the judgment and order dated 8th March, 2017 it was directed by the trial Court that the seized amount of Rs.12,51,800/- deposited in the bank with interest be returned to the accused after appeal period is over. As stated above, the State had preferred an appeal challenging the order of acquittal which is disposed of as abated. Thus, there is no impediment in complying the directions of the trial Court and to return the amount to the applicants being legal heirs of Bharat

Jairam Sawant. The judgment and order dated 8th March, 2017 also directs that the freezed bank accounts of the accused, wife and sons be de-freezed after it is confirmed that the appeal is not filed and in case of appeal, the freezing of account is subject to the orders of appellate Court.

9. Thus, the bank account of the applicants as well as the original accused which were freezed during the course of investigation are required to be de-freezed in view of directions in the order dated 8th March, 2017 passed by the Special Judge (under ACT Act), City Civil and Sessions Court, Greater Bombay as it has attained finality.

10. Considering the aforesaid aspects, I pass the following order :

ORDER

i. In accordance with directions in judgment and order dated 8th March, 2017 passed by Special Judge in Special Case No.90 of 2014, the amount of Rs.12,51,800/- deposited in the bank during investigation be returned to the applicants along with interest accrued on the deposit.

ii. The bank accounts of the applicants and the original accused be de-freezed in accordance with directions stipulated

in order dated 8th March, 2017 passed by the Special Court in Special Case No.90 of 2014.

iii. The cheque/D.D. for the amount of Rs.12,51,800/- along with interest accrued therein be issued in the name of applicant No.1 – Bhakti Bharat Sawant.

iv. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)