

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

CRIMINAL WRIT PETITION NO. 4480 OF 2021

1. Bhagawat Krishna Patil	
2. Pallavi Bhagwat Patil	...Petitioners
Versus	
1. The State of Maharashtra	
2. Central Bureau of Investigation.	...Respondents

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Mr. Aashish Satpute, Advocate for the Petitioner.

Mr. A.R. Patil, APP for the Respondent No.1– State.

Mr. Kuldeep Patil, Advocate for Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATE : JULY 01, 2022

PC :

1. The Petitioners are seeking transfer of Special Case No. 535 of 2021 pending in the Court of 52nd Special Judge, Mumbai to the Special Court at Malegaon, Nashik.

2. First Information Report was registered by Respondent No.2 C.B.I. on 29th June 2019 under Sections 13 read with 13(1) (e) of Prevention of Corruption Act against the Petitioner No.1. It is alleged that, the Petitioner No.1 was Section Engineer with Central Railway, Manmad. While working in the Railway Department during the period from 1st April 2008 to 15th February 2016, the petitioner

No.1 had accumulated assets in his name and in the name of his family member, which are disproportionate to his source of income to the extent of Rs.45,43,687/-. Investigation revealed that, during the period from 1st April 2008 to 15th February 2016 the Petitioner No.1 has assessed assets disproportionate to his known source of income in his name as well as in the name of his wife/Petitioner No.2. On completing investigation charge-sheet was filed.

3. Learned Advocate for the Petitioners submitted that, the Petitioners are residing at Jalgaon and it is convenient for them to attend the proceedings at Malegaon. The Petitioners are senior citizen and they are contesting the trial of the first crime at Malegaon. The Special Case No.535 of 2021 pending before the Special Court at Mumbai is outcome of first crime i.e. Special Case No. 51 of 2016 pending on the file of Special Judge at Malegaon. In the interest of justice and convenience of the parties, the Special Case No.535 of 2021 pending before the Special Judge at Mumbai may be transferred to the Special Judge at Malegaon, Nashik.

4. The Respondent No.2 has filed affidavit-in-reply opposing the prayer for transfer of proceedings. Learned Advocate for the Respondent No.2 submitted that, the case pending before the Special Judge at Malegaon and case pending before the Special Court at Mumbai are distinct. The Special Case No.51 of 2016 is trap case

and the Special Case No.535 of 2021 relates to disproportionate assets to known source of income of accused.. The convenience of accused has no relevance in deciding the place of trial. The accused are having flat No. 305 Viswa High Land sector-20, Kamothe, Navi Mumbai and bank account and investments with Indian Bank, CBD Belapur, Navi Mumbai. The accused are owning agricultural land at Pune. It cannot be inferred that although they are native of Jalgaon, it is inconvenient for them to attend the said proceedings in Mumbai.

5. As per section 177 of Cr.P.C. every offence shall ordinarily be inquired into and tried by Court within whose local jurisdiction, it was committed. The place of commission of offence is within jurisdiction of the Special Court at Mumbai. Even otherwise, the ground urged by Petitioner for seeking jurisdiction of the case are not sufficient to grant prayer of transfer. Both the cases are distinct. The Special Case pending before the Court at Malegaon relates to the trap case and the case pending before the Court at Mumbai is relating to the disproportionate assets. No ground is made out to transfer the case.

ORDER

- (i) Writ Petition is rejected and disposed off accordingly.

(PRAKASH D. NAIK, J.)