

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 454 OF 2021

- 1) Sanjay Gangaram Avathare,
Aged about 46 years,
Occu. - Labour Manager,
R/o. Ashti, Tah. Chamorshi,
Dist. Gadchiroli.
 - 2) Mohammad Basu Mohammad Miya,
Aged about 33 years,
Occ. - Contractor,
R/o. Mohammad Gauspalli,
Tah. Mulung, Dist. Warangal.
- **APPELLANTS**

// **VERSUS** //

State of Maharashtra,
Through Police Station Officer,
Police Station, Sironcha,
Tahsil Sironcha, District Gadchiroli.

.... **RESPONDENT**

Mr. S.V. Sirpurkar, Advocate for Appellants.
Mr. A.S. Fulzele, Additional Public Prosecutor for Respondent.

**CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.**

DATED : 29.06.2022

ORAL JUDGMENT : (Per Sunil B. Shukre, J.)

1. Heard. **Admit.** Heard finally by consent of the learned counsel appearing for the parties.

2. It is the contention of the learned counsel for the Appellant that there was recovery of cash amount of Rs.1,20,00,000/-, which was recovered from the car in question but it was actually made for being paid to Tendu patta labourers and therefore, both these Appellants could not be said to have committed any crime of consciously and conspiratorially making terror funding, punishable under Sections 17, 18 and 21 of the Unlawful Activities (Prevention) Act, 1967.

3. It is further submitted by Mr. S.V. Sirpurkar, learned counsel for the Appellants that there is no evidence to establish any *prima facie* link between the cash amount recovered and the terror funding for the purpose of carrying out of any terrorist activities.

4. It is further submitted that there are agreements placed on record, which show that for one year starting from 31st March, 2020 till 31st March 2021, the concerned Gram-panchayat had awarded contract of Tendu patta collection to the Appellant No.2 and these agreements themselves explain the possession of cash amount by the Appellants.

5. It is further submitted that just because the driver of the Appellant No.2 has made a statement that he has seen both these Appellants meet some armed persons in the forest of Gadchiroli, would

not by itself establish any link between these Appellants and activity of terror funding.

6. Mr. A.S. Fulzele, learned Additional Public Prosecutor for the Respondent submits that not only huge amount of Rs.1,20,00,000/- has been recovered from the vehicle in question, but the further evidence collected by the police *prima facie* shows that it was meant for being provided to the naxalites in the jungles of Gadchiroli, who are notorious for carrying out various terrorist activities. Therefore, according to him, this is not a fit case for grant of bail.

7. We have gone through the First Information Report (FIR) and also statements of two witnesses, in particular the statement of one Sudhir Raut, who was the driver of the vehicle in question and also statement of Aliuddin Jahiruddin Mohammad, the servant of the Appellant No2. The FIR and statement of Sudhir Raut, in particular, *prima facie* show that possibility of the involvement of both the Appellants in the crime registered against them cannot be ruled out. While it is true that the Appellant No.2 has explained the possession of the cash amount by relying upon Tendu patta collection agreements between concerned Gram-panchayat and him, the factum of quantity of the cash amount raises suspicion and this suspicion, when considered in the light of the statement of some of the prosecution witnesses,

would make out a *prima facie* case against the Appellants for the offences for which the present crime has been registered against them.

8. Mr. Sirpurkar, learned counsel for the Appellants has relied upon the view taken by the Supreme Court in the case of ***Sudesh Kedia Vs. Union of India, (2021) 4 SCC 704***, wherein the Apex Court has held that payment of extortion money would not amount to terror funding, particularly when other members of the terrorist organisation concerned were found to be systematically collecting extortion amounts from businessmen in certain areas.

9. Mr. Sirpurkar, learned counsel for the Appellants submits that even if the worst scenario of the Appellants being forced to pay money to terrorist is considered, the case of the Appellants would be covered by the view so taken by the Apex Court and, therefore, the Appellants would be entitled to be released on bail.

10. In our considered view, the facts of the present case are quite different and at this stage they indicate that it were the Appellants who by their holding secret parleys with armed persons in jungles had established nexus with those persons and it was, *prima facie*, for purpose of lending financial support to such armed persons, whose object was to spread terror. Therefore, we do not think that any

assistance could be sought by the Appellants from the said case of ***Sudesh Kedia*** (supra) at this stage.

11. In the result, we find that this Appeal cannot be allowed and it is dismissed accordingly.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Kirtak