

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO. 551/2022

Purushottam s/o Ramulu Anasuri
aged about 56 years, Occ. Business,
r/o 2-8-85/1/A, Mukrampura,
Tq. Karimnagar, District Karimnagar
(Telangana), At present lodged at
Central Prison, Nagpur.

....APPELLANT

...V E R S U S...

State of Maharashtra through PSO
P.S. Damrancha, Sub Police Station,
Dhamrancha, Tahsil Aheri, District
Gadchiroli.

...RESPONDENT

Mr. H. P. Lingayat, Advocate for appellant.
Mr. T. A. Mirza, A.P.P. for respondent-State.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.
DATED :- 21.09.2022

J U D G M E N T (Per: Anil L. Pansare, J.)

This is an appeal under Section 21(4) of the National Investigation Agency Act, 2008. The appellant-original accused no.5 was arrested on 24.02.2022 in Crime No.02/2022, registered with Sub Police Station, Damrancha, Tq. Aheri, Dist. Gadchiroli, for the offences punishable under sections 13, 18, 20, 23 and 39 of the Unlawful Activities (Prevention) Act, 1967, Sections 6 and 9 (b) of the Explosives Act, 1884, Sections 4 and 5 of the Explosive Substances Act, 1908 and Sections 34 and 120-B of the Indian Penal Code, 1860.

2. Law was set in motion on 19.02.2022 by Police Station Officer, Damrancha. He received secret information about possession of explosives and Naxal pamphlets. According to the prosecution, co-accused Raju Gopal Salla and Mohd. Kasim Shadulla are Naxal members and had stored explosives in the house of co-accused Kashinath alias Ravi Mulla Gawde, Sadhu Laccha Talandi and Chhotu alias Shinu Mulla Gawade, for anti-Government activities. The police raided the premises of Sadhu. From the spot the incriminating material such as banners, Naxal pamphlets, batteries and cortex (explosive detonating fuse) were seized.

3. So far as the appellant is concerned, the accusation against him is that he has supplied explosives to the Naxals. This fact was allegedly revealed during the course of investigation when the witness Ramesh Adapu was interrogated. According to the prosecution, Ramesh has disclosed to the investigating agency that the appellant had supplied explosives. The investigating officer has collected CDR and SDR of the appellant and co-accused, which indicate that the appellant was in contact with the co-accused. The CDR details also indicate that the appellant and witness Ramesh were in contact with each others.

4. We have, with the assistance of learned counsel for the appellant and learned A.P.P., gone through the statement of Ramesh recorded under Section 164 of the Code of Criminal Procedure, 1973. He stated that while undergoing Satsang at Shri Ramchandra Mission, Mankammatota, Karimnagar, he got acquainted with the appellant. The people attending Satsang used to book tickets from the witness. On 11.02.2022, the appellant made a phone-call to Ramesh to book air tickets to go abroad. The appellant deposited Rs.62,000/- through account of someone else. The appellant informed that he intends to book four tickets to visit South Africa. On 17.02.2022, the appellant informed the witness not to book tickets. Thereafter, the witness has returned the amount of Rs.62,000/- to the son of the appellant. The witness has then stated that he does not know from whose account the money was transferred.

5. On the basis of the aforesaid statement, the learned A.P.P. believes and argued that there is ample evidence against the appellant to show his involvement in the crime.

6. We are not impressed with the aforesaid argument. The First Information Report indicates that on 19.02.2022, Incharge Police Station, Sachin Ghodke, had received a secret information that the persons named; Raju Gopal Salla and Mohd. Kasim

Shadulla son of Mohd. Kasim, both residents of Karimnagar, have procured explosives for the banned organization CPI (Maoist) to overthrow the Constitutionally formed democratic Government and have kept the said explosive substances at Mouja Bhangarampetha in the dwelling house of Kashinath alias Ravi Mulla Gawde, Sadhu Lacchu Talandi and Chhotu alias Shinu Mulla Gawde.

7. The aforesaid information was shared with the Superintendent of Police, Additional Superintendent of Police, Gadchiroli and Sub Divisional Police Superintendent, Jimalgatta. The police party along with panchas then under the supervision of the aforesaid officers, have entered the deep forest and reached the house of Sadhu Laccha Talandi. The informant police officer called Sadhu and in response, four persons came out of the house. Their names were Sadhu, Kashinath, Raju and Mohd. Kasim Shadulla. Thereafter house search was conducted in the presence of panchas. Many incriminating materials were found, which include Naxal pamphlets, banners, FM Transceiver, battery, cortex wires, etc. On interrogation, the four persons informed the police that those materials were procured for committing the act of sabotage against police party with the motive to commit anti-national activity. It is then stated that the name of appellant and

another person was disclosed through these accused persons. The investigating officer has then recorded statement of witness Ramesh, as stated above.

8. Thus, the evidence against the appellant is that the co-accused have disclosed his name and that the witness Ramesh has narrated his involvement in the alleged crime. So far as the disclosure of involvement of appellant through co-accused is concerned, the said evidence is not admissible. Thus, the only evidence available against the appellant is the statement of Ramesh. The said statement, even if accepted at its face value, will show that the appellant has deposited Rs.62,000/- in the account of the witness through the account of some unknown person. The amount was deposited to book the tickets to visit South Africa. The tickets were however not booked and therefore the amount was returned back to the appellant through his son. This evidence, coupled with the case of the prosecution that the appellant was in contact with the co-accused and witness, by no stretch of imagination could be sufficient to prove the complicity of the appellant with the crime. One cannot jump to the conclusion on the basis of the deposited amount with Ramesh from unknown person's account that the appellant has supplied explosives to the Naxals. Further, merely because there were

phone calls between two mobile numbers allegedly belonging to the appellant and co-accused so also the witness, by itself and without transcripts of conversation, will hardly be of any assistance to prove the complicity of the appellant.

9. The sum and substance of the above discussion is that, prima facie, there are reasonable grounds to believe that the accusation against the appellant are not true. The learned Sessions Court, however, was of the view that the aforesaid evidence is sufficient to show that the appellant is connected with the Naxal activities and thus rejected the application. The finding so recorded, in our view, is erroneous, for the reasons stated in the earlier paragraphs. The order impugned, therefore, is liable to be set aside. The appellant has, thus, made out a case for releasing him on bail. Hence, following order is passed.

ORDER

- (i) The appeal is allowed.
- (ii) Order dated 07.07.2022 passed by Additional Sessions Judge, Gadchiroli below Exh.1 in Criminal Bail Application No.79/2022 is quashed and set aside.
- (iii) Appellant-Purushottam s/o Ramulu Anasuri, be released on bail in connection with Crime No.02/2022, registered with Sub Police Station, Damrancha, Tq. Aheri, Dist. Gadchiroli, for an offence punishable under sections 13, 18, 20, 23 and 39 of the

Unlawful Activities (Prevention) Act, 1967, Sections 6 and 9 (b) of the Explosives Act, 1884, Sections 4 and 5 of the Explosive Substances Act, 1908 and Sections 34 and 120-B of the Indian Penal Code, 1860 on he executing P.R. Bond in the sum of Rs.50,000/- with two solvent sureties in the like amount.

(iv) The appellant shall surrender his Passport, if he possesses, before the trial Court.

(v) The appellant shall not tamper with the prosecution evidence and also shall not influence the prosecution witnesses.

(vi) The appellant shall attend the trial Court on each and every date, unless specifically exempted by the trial Court.

The appeal is disposed of.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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