

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

CRIMINAL APPEAL NO. 873 OF 2022

Jayshri @ Baida Dattatray Kale
and Anr.

..Appellants

V/s.

The State of Maharashtra

..Respondent

Mr. Gaurav Parkar a/w Priyanka Pandey for the Appellants.

Mr. Y.M. Nakhawa, APP for the Respondent/State.

**CORAM : SUNIL B. SHUKRE, AND
ABHAY S. WAGHWASE, JJ.**

DATE : 14th MARCH 2023

P.C.

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent/State. Heard finally by consent.

2. The Appellants are the accused persons, who have been arraigned along with other accused persons in Crime No. 222 of 2015 registered with Sadarbazar Police Station, Solapur for the offence punishable under Sections 409, 420, 467, 468, 471, 120(b) of IPC read with Section 34 of IPC and also under Sections 3, 2(5), 3(2) (7) of Prevention of Atrocities Act.

3. The gist of the allegations against the Appellants is that they were the employees of one outsourcing agency namely

Mastake Company, Pune which was appointed by the Government for implementing scholarship schemes for the students of the backward classes and in the capacity of company's employees and had accepted deposits of certain amounts, in their accounts. It is further alleged that these amounts were meant for their disbursement to eligible backward classes students on account of scholarship sanctioned to them. But misappropriating them, the main accused lodged them in account of Appellant and also other accounts. The misappropriation of the scholarship amount has been alleged to be done by the prime accused i.e. accused Nos. 1 and 2 of whom accused No.1 Sarita Kale was also an employee of Mastek company. The misappropriation was done with the help of original complainant who was later on made accused No.54 who was then serving as Assistant Commissioner, Social Welfare Department, Solapur. But, so far as Appellant is concerned, the only allegation made against them is that even though they were not eligible to receive any scholarships amounts, they being not students much less persons belonging to backward classes, these Appellants became beneficiaries of proceeds of crime when they accepted certain deposits directly made in their respective accounts by the prime accused.

4. Both these Appellants had filed an application for grant of anticipatory bail before this Court, but it came to be rejected by this Court by a common order passed on 21.07.2016 and it is

against this order that the Appellants had preferred this present appeal quite belatedly.

5. Today the situation is that chargesheet in the present crime has already been filed quite long ago and the case is pending at the stage of framing of charge with the next date being 01.04.2023. Since, the registration of the crime and later on after rejection of the anticipatory bail application of the Appellants on 21.07.2016, the Appellants have never been arrested by Sadarbazar police. The question therefore, would be as to what purpose would be achieved if this appeal is rejected and the Appellants are directed to be arrested by the police. We, therefore, put a specific query to the Officer of the Economic Offences Wing of Solapur police, Ms. Pranjal Sonawane, Dy. Commissioner of Police, Crime, who is personally present before this Court. It was whether or not Solapur police would require custody of the Appellants and the answer given by the said officer was in the negative. She states that it would be enough if the Appellants are directed to regularly attend the dates that are and that would be fixed for conducting of trial in the present case by the Trial Court at Solapur and that they co-operate with the Trial Court in speedy disposal of the case.

6. Considering the statement so made by the Dy.C.P., Crime Solapur which is to the effect that custody of these Appellants is

no more required, we find that now there is a change in circumstances and therefore, this appeal deserves to be allowed.

7. The appeal is allowed and the order rejecting the application of Appellants to grant anticipatory bail is hereby quashed and set aside. We direct that in case, the Appellants are arrested, they shall be released on bail forthwith on their furnishing a PR bond of Rs.1 lakh each together with two solvent sureties for each of the Appellants in the sum of Rs.1 lakh each on following conditions:

- a) The Appellants shall regularly attend their trial pending before Solapur Court on the dates fixed in the trial.
- b) The Appellants shall co-operate with the Trial Court in speedy disposal of the Criminal Case.
- c) The Appellants shall not seek any adjournment or exemption from personal attendance, except for reasons beyond their control.
- d) The Appellants shall not tamper with the prosecution witnesses/evidence.

8. The Criminal Appeal is disposed of in the above terms. Rule is made absolute. No order as to costs.

(ABHAY S. WAGHWASE, J.)

(SUNIL B. SHUKRE, J.)