

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 134 OF 2022

Liladhar @ Vijay Lodhi ... Appellant

V/s.

State of Maharashtra ... Respondent

Mr. Sanjiv G. Punalekar a/w. Mr. Ranjeet Nair and Mr. Sachin Kanse
for Appellant.

Mr. A.R. Kapadnis-APP for the State.

**CORAM : SUNIL B. SHUKRE &
KAMAL KHATA, J.J.**

DATE : 23rd MARCH 2023.

P.C. :

- . Heard.
2. Admit.
3. The appellant is one of the accused persons who is being tried for the offences punishable under section 6, 18, 18(A), 18(B), 19, 20 and 23 of UA (P) Act, 1967 r/w sections 4 and 5 of Explosive Substances Act, r/w section 9(B) of the Explosives Act, r/w. Sections 3,5,7,26,27 of Arms Act, r/w sections 37(i) and 135 of Maharashtra Police Act and sections 120(B), 212, 471, 379, 201 of the Indian Penal

Code.

4. The gist of the allegations made against the appellant is that he being a part of the conspiracy to destabilize India and destroy sovereignty and integrity of India by indulging in some terrorist and violent acts, did some overt acts leading to constitution of offences. It is also alleged that the appellant is an active member of a Hindu Organization 'Sanatan Sanstha' whose object is to form 'Hindu Rashtra' by secretly forming a terrorist gang within State of Maharashtra and adjoining States. It is further alleged that in order to achieve with the object of 'Sanatan Sanstha', the accused persons including present appellant collected or prepared crude bombs and stored explosives and fire arms. It is also alleged that certain training camps were organized in order to provide training to the members of 'Sanatan Sanstha' in handling of explosions and use of fire arms and appellant was its beneficiary. It is further alleged that one of the aims of members of 'Sanatan Sanstha' was to prevent screening of movies, holding of western cultural programme and organising such events as 'sunburn' festival and other similar functions, which were, perceived by 'Sanatan Sanstha' to be against the tenets of Hinduism and ideology followed by 'Sanatan Sanstha'.

5. According to learned counsel for the appellant, there is absolutely no evidence collected by the police in order to show any connection whatsoever of the appellant with the alleged conspiracy. He further submits that there is no evidence to show that the recovery of crude bombs made from the ancestral house of the appellant was *prima facie* attributable to the appellant. He also submits that there is no evidence showing that there were certain training camps which were actually attended by the appellant.

6. Learned APP for the State strongly opposing the appeal submits that there is some evidence showing that the appellant is the member of 'Sanatan Sanstha' whose aims and objectives are not conducive to the maintenance of integrity and sovereignty of India. He further submits that during the house search, three crude bombs were recovered from the house of the appellant and therefore, it can not be said that there is no *prima facie* evidence connecting the appellants to the conspiracy theory propounded by the prosecution in this case. He further submits that there are statements of co-accused, which sufficiently indicate involvement of the appellant in the offence registered against him.

7. On going through the charge-sheet and reply of the prosecution, we find that there is no evidence *prima facie* showing involvement of the appellant in the criminal conspiracy alleged by the prosecution.

8. Of course, there may be some statements of the co-accused wherein an accusatory finger may have been pointed towards the appellant but, the facts stated in the statement, in our view, must receive some *prima facie* assurance of they being correct, or otherwise, they would be no more than bald statements made by some co-accused against the other accused. In other words, *prima facie* veracity of these statements is required to be established or otherwise, these statements alone would not be enough to carry forward the case of the prosecution against the appellant.

9. With the aforestated object in mind that we have examined the other evidence collected by the I.O. during the course of the investigation and the result of such exercise, we must say, is quiet disappointing.

10. We find that there is no *prima facie* evidence to attribute recovery of three crude bombs found during the search of the ancestral house to the appellant, which recovery was not under

section 27 of the Evidence Act. Admittedly, this house, which was subjected to search by the police, is not owned by the appellant and it is stated to be ancestral house of the appellant. Once, it is found that the house from where some incriminating articles have been recovered during the house search is not solely owned by the accused like the appellant, then such a recovery cannot be attributed to the accused like appellant alone, unless possibility of ownership of the property found during house search by others is ruled out. This other possibility, as of now, has not been ruled out, there being no other evidence available on record to reach to a prime-facie conclusion in that regard.

11. Then, there are allegations that the some training camps for imparting training to the members of the ‘Sanatan Sanstha’ in handling explosive material and fire arms were organised. But, as of now, we could not come across physical evidence of existence of training camps any where nor any such evidence has been brought to our notice by the prosecution.

12. The most intriguing part of this case is that ‘Sanatan Sanstha’ is an organization which has not been declared to be a banned or terrorist organization or a frontal organization of any

banned terrorist group within the meaning and contemplation of Unlawful Activities (Prevention) Act, 2004. In fact, the official website of 'Sanatan Sanstha' shows that it is a registered charitable trust and its aim is to impart spiritual knowledge to the curious in the society, inculcate religious behavior in the masses and providing personal guidance to seekers for their spiritual upliftment. Official website also throws light upon the activities of 'Sanatan Sanstha'. These activities include such initiatives as are taken for spreading of spirituality in the society, organizing free of charge lectures and guidance camps on various aspects of spirituality and for initiating interested into spiritual endeavours, holding weekly Satsangs in local languages, guiding about the spiritual science, organizing 'Bal Sanskar Varg / Moral Education Class for children, conducting education on dharma/righteousness and so on.

13. So, it is clear now that whatever appears in the bald statements of co-accused does not receive any prima facie assurance of that being correct, from the other material available on record and, therefore, those statements would not come in the way of the appellant in making out his case for grant of bail, which he has indeed made out.

14. It appears to us that all these relevant and significant aspects of the entire case discussed hereinabove have not been appropriately considered by the trial court and that is the reason why we have before us an erroneous order which deserves interference.

15. In the result, the appeal is allowed. The impugned order is hereby quashed and set aside. The appellant is directed to be released on bail on his furnishing a P.R. bond of Rs. 50,000/- together with one solvent surety in the like sum on the following conditions:-

- a) The appellant shall not temper with the prosecution evidence.
- b) The appellant shall appear before the concerned police station if required in future.
- c) The appellant shall cooperate with the trial Court in speedy disposal of his trial.
- d) The appellant shall not seek adjournment or his exemption from personal attendance, except for reasons beyond his control.

16. We make it clear here that trial Court shall not be

influenced in any matter by observations made hereinabove, which have been made only for the purpose of consideration of the case of the appellant for grant or otherwise of bail to him.

(KAMAL KHATA, J)

(SUNIL B. SHUKRE , J)