

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1672 OF 2023
IN
CRIMINAL APPEAL NO. 31 OF 2023

Goldie Sud	.. Intervenor/Applicant
In the matter of	
Hakam Chand Mendiratta	.. Appellant
Versus	
The State of Maharashtra and Anr	.. Respondents

...

Mr. Goldie Sud, in person for the applicant in IA No.1672/2023.
Mr.H.S. Venegavkar for CBI.
Mr.Y.M. Nakhwa, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 23rd OCTOBER, 2023

P.C:-

1 The present Interim Application is taken out by the complainant/victim at whose instance the FIR was lodged on 26/7/2012 with CBI ACB, Mumbai and on completion of investigation, charge-sheet is filed before the Special Judge under Section 7 and 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988 and Section 120B, 420 of the IPC.

2 It is in furtherance of the complaint of the informant to the Superintendent of Police, CBI, ACB, case was registered against the Sr. Manager of Punjab National Bank and a retired PNB employee working as Recovery Agent in the Asset Recovery Management Branch for demand of illegal gratification from him for providing some crucial information/ documents which would assist him to set aside the alleged illegal sale of his property carried out by the Mumbai Branch during an auction to be held on 15/9/2010.

The charge-sheet was thus filed against Mr. Mani Bhushan, Sr. Manager, Regional Stationery Distribution Centre, PNB House, Fort, Mumbai, and Hakim Chand Mendiratta, Resolution Agent working with Punjab National Bank, Mumbai.

On being subjected to trial, the Special Judge, CBI by judgment dated 19/12/2022 has held that “Hakim Chand Mendiratta guilty of committing offences punishable u/s.120B of the IPC r/w Section 7 of the Prevention of Corruption Act, 1988 and he is sentenced accordingly. As far as other accused against Mani Bhushan is concerned, since he was reported to be dead, the case is said to have abetted against him.

3 Being aggrieved by the said judgment of conviction and imposition of sentence, Shri Hakim Chand Mendiratta has filed an Appeal before this Court, which is admitted on 8/2/2023 and by order dated 8/2/2023, the appellant is directed to be

released on bail with one or more sureties in the like amount and his sentence stand suspended.

4 In this Appeal, the Application is taken out by the complainant seeking an intervention.

I have heard Mr. Goldie Sud who appear in person and he has placed reliance upon the latest decision of the Apex Court in case of *Jagjeet Singh and ors Vs. Ashish Mishra @ Monu and Anr (Criminal Appeal No. 632/2022 arising out of Special Leave Petition (Crl.) No. 2640/2022)*

It is not in dispute that the victim is conferred with distinct rights under the amended Code of Criminal Procedure and these rights are substantive, enforceable and have received the recognition of human rights. The right of the victim is accepted as independent and incomparable right and not being merely or auxiliary to those of the State under the Code.

In *Jagjeet Singh and ors* (supra), the Apex Court has categorically held that the presence of the “State” in the proceedings, pending before any court of competent jurisdiction, does not tantamount affording a hearing to victim of the crime. In para 24, the pertinent observations of the Apex Court are recorded as under :-

“24 A ‘victim’ within the meaning of Cr.P.C cannot be asked to await the commencement of trial for asserting his/her right to participate in the proceedings. He/She has a legally vested right to be heard at every step

post the occurrence of an offence. Such a 'victim' has unbridled participatory rights from the stage of investigation till the culmination of the proceedings in an appeal or revision. We may hasten to clarify that 'victim' and 'complainant/informant' are two distinct connotations in criminal jurisprudence. It is not always necessary that the complainant/informant is also a 'victim', for even a stranger to the act of crime can be an 'informant' and similarly, a 'victim' need not be the complainant or informant of a felony."

5 In the wake of the aforesaid observations and the pronouncement on law and since Mr. Goldie Sud is the complainant, I see no difficulty in permitting him to be heard, when the Appeal is finally heard.

Being a victim, he has a right to oppose the relief in the Appeal and it is for this reason, I deem it appropriate to grant the Interim Application filed by him seeking intervention in the Appeal.

Since the Application is granted, the appellant is directed to carry out the necessary amendment in the Appeal by impleading him as a party respondent.

Necessary amendment be carried out within a period of six weeks from today.

Interim Application is allowed as in above terms.

(SMT. BHARATI DANGRE, J.)