

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1190 OF 2022

Pratap Judhithir Hajra ... 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 Unlawful Activities (Prevention) 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 the Maharashtra Police Act and sections 120(B), 212,

471, 379, 201 of the Indian Penal Code.

4. According to the learned counsel for the appellant there is no evidence available on record which shows *prima facie* involvement of the appellant in the offences registered, which is disagreed to by learned APP for the State.

5. According to the learned APP, one mobile handset having the sim card of Mobile No. 7866097426 has been found and seized from the possession of the appellant and the call details record of this mobile number *prima facie* show that the appellant is well connected to the prime accused-Sudhanwa Sudhir Gondhlekhar, whose office used to be frequently visited by this appellant and there is further evidence to show that this appellant used to take part in the discussions that were going on in the office of the prime accused–Sudhanwa Sudhir Gondhlekhar regarding preparation of bombs, use of explosive material for committing terrorist crimes, use of fire arms and so on. He submits that the Panchnama dated 27/08/2018 and seizure of the diary from the office of the prime accused show *prima facie* involvement of the appellant in the present crime.

6. About seizure of the mobile handset bearing Mobile No. 7866097426, we find that there is no *prima facie* evidence showing

that this mobile handset or sim card of the said number is issued in the name of the appellant and the only fact which is being held against the appellant at this stage is that this mobile handset along with sim card bearing same mobile number was found in his possession and that too in the year 2020.

7. It is pertinent to mention here that the alleged conspiracy to destabilize India had started in the year 2017 and it is alleged that various discussions in that direction were held in the office of the prime accused-Sudhanwa Sudhir Gondhlekar in the year 2017. The Call Detail Record of the mobile handset found from the possession of the appellant indicates that this mobile handset with the said mobile number was in and around the office of Sudhanwa Sudhir Gondhlekar during that period of time. But, there is one vital link which is missing and which is necessary to *prima-facie* connect appellant to these incriminating discussions and criminal conspiracy of the year 2017 and it is of the ownership of mobile handset or the sim card to be with the appellant which is absent here. This mobile handset, as stated earlier, has been seized from the possession of the appellant in the year 2020 and therefore, possibility cannot be ruled out that in the year 2017, it may have been in the possession of somebody else. So,

there is a veritable doubt about the *prima-facie* involvement of the appellant in the alleged criminal conspiracy.

8. As regards the alleged incriminating entries in the diary, we must say that these entries by themselves, without there being any further evidence establishing a link between these entries and actual crime, would constitute hardly any incriminating evidence against the appellant.

9. There is one more angle involved in this matter. All is being said about the accused persons, including the appellant, being members of the organization- 'Sanatan Sanstha', which indulges in nefarious and terrorist activities so as to destabilize India by destroying its sovereignty and integrity, with a view to establish "Hindu Rashtra" in India, but, 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 members of the society into spiritual practice, 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.

10. All these aspect having not been considered by the trial Court, we have before us an order which is erroneous and which cannot be sustained in the eye of law.

11. 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 tamper 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.

12. We make it clear here that trial Court shall not be influenced in any manner 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)