

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

CRIMINAL APPEAL NO.404 OF 2023

Rajendra Harichandra Longale Applicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. Abhaysingh A. Shinde, Advocate for the Applicant.
Mr. Avinash A. Naik, APP for the Respondent-State.
Mr. Pawan Mali, Advocate for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th APRIL, 2024

P.C. :

1. This is an Appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act'). The Applicant had earlier approached this Court vide Criminal

Appeal (Stamp) No.14174/2022. Said Appeal was decided on 20.1.2023 by passing the following order :

- “1. Learned counsel for the appellant without arguing the matter, simplicitor prays for withdrawal of this appeal. Permission is granted. The appeal is allowed to be withdrawn unconditionally without any liberty. A copy of this order be sent to the trial Court.
2. Criminal Appeal is disposed of accordingly. With disposal of the appeal, nothing survives in Interim Application No.2865/2022 and the same also stands disposed of.”

2. In spite of this order, the Appellant then again approached the Special Court for the same relief of anticipatory bail. That Application was rejected and, therefore, the Appellant has filed this Criminal Appeal again for the same relief seeking anticipatory bail in connection with C.R.No.189/2021 registered at Karjat Police Station, District-Raigad under Sections 420, 406, 467, 468, 471, 120-B of IPC and under section 3(1)(f),(g) of the Atrocities Act. Ordinarily

in the background of the previous order passed by this Court, this Appeal was not maintainable. However, learned counsel for the Appellant submitted that the Appellant is suffering from paralysis and, therefore, on humanitarian ground I have heard the parties on the merits of the matter.

3. Heard Mr. Abhaysingh Shinde, learned counsel for the Applicant, Mr. Avinash Naik, learned APP for the Respondent-State and Mr. Pawan Mali, learned counsel for the Respondent No.2.

4. The prosecution case is reflected in the FIR itself lodged by one Sunil Vasant Hire. The FIR is lodged on 23.6.2021. He has stated that his father had a land at village Umroli, Karjat, Taluka – Karjat, District – Raigad at Survey Nos.28 and 33 admeasuring 150 Ares. The informant used to regularly take out 7/12 extract of that property. In May, 2021 the extract was in his father's name. There was no other entry. On 11.6.2021 the informant came to the Talathi Office at Umroli and took 7/12 extract of those two properties. He saw that there was a pending mutation entry No.916 and the last

mutation entry was entry No.915 dated 7.6.2021. The informant asked the Talathi as to why the extract showed the pending mutation entry because the informant's father had not entered into any transaction in respect of that property. At that time, the informant was told that there was transaction in respect of that property vide sale deed No.2299/2021 dated 11.6.2021. The informant's father had not stepped out of his house for about one and half years and, therefore, such a transaction was not possible. The informant made inquiries and he came to know that the land was sold to M/s. Briten Developers LLP through its Partner Anil Batija. The informant came to know that some imposter has stood in place of the informant's father while executing and registration of that document. The sale deed mentions that the land was sold for Rs.2,43,65,000/-, out of which Rs.1,42,21,350/- was paid through cheque dated 5.6.2019 and the further amount of Rs.99 Lakhs was paid through cheque dated 21.6.2019 both issued on the Axis Bank Limited, Ulhasnagar. But, the informant or his father had never received those cheques. The

informant came to know that the present Applicant and others had committed this offence and, therefore, this FIR was lodged. The allegations were that the forged documents in the form of forged Aadhaar Card and PAN Card were used. The imposter was made to stand in place of the informant's father. On this basis, the FIR is lodged.

5. Learned counsel for the Applicant submitted that the Applicant was an agent and he knew many people in connection with different land transactions, but he is not connected with this transaction. He has not received any amount in the entire transaction. He has not played any role in the transaction. There is no material against him.

6. Learned APP as well as learned counsel for the first informant opposed these submissions. They relied on the statements and other documents included in the charge-sheet which is already filed. Learned counsel for the informant particularly relied on the statements of the purchasers and of the person in whose account ultimately the money had travelled.

7. I have considered these submissions. The statements referred to by learned counsel for the first informant are those of Vishal Deshmukh, Yogesh Thakkar and Sadanand Bhase. Vishal Deshmukh was helping Yogesh who was a Partner of Briten Developers LLP. In May, 2021 one Rajat Mhase met him and showed him 7/12 extract of Survey Nos.33 and 28. Rajat told Vishal that the said land was for sale. Vishal enquired about the ownership of that land. At that time Rajat told him that the present Applicant was in contact with the owner of the land. Thereafter Rajat brought the Applicant to Vishal. The Applicant thereafter brought one person purportedly by the name Vasant Zipru Hire. Vishal asked him regarding the rate of the land. At that time the said person quoted the rate of Rs.3 lakhs per guntha and he further suggested that Vishal should negotiate with the present Applicant. At that time the present Applicant told Vishal that he should be introduced to Vishal's employer and that the Applicant would complete the transaction. Thereafter this witness Vishal Deshmukh, the present Applicant, Rajat and

one Sanjay Karale met Yogesh Thakkar at Ambernath. The rate of the land was fixed at Rs.3 Lakhs per guntha. After that the present Applicant and Rajat brought PAN card and Aadhar card of Vasant Hire. On 8.6.2021, the sale deed for both the survey numbers were executed and registered vide sale deed No.2299/2021. Sanjay Karale and Rajat Mhase were the witnesses. At that time the cheques mentioned in the FIR were given to Vasant.

8. This statement is supported by the statement of Yogesh Thakkar in all material particulars. This clearly shows that the purchasers Briten Developers LLP through their Partner had purchased that land. The Partner was made to believe that the real owner Vasant had executed the documents and accepted the amount, though in reality he was an imposter. Huge amount was accepted by cheques by that imposter.

9. Sadanand's statement shows that in June, 2021 Rajat Mhase introduced him to the present Applicant who told this witness that he had completed the transaction with one

Vasant Hire and the amount was transferred in this witness's account and that the Applicant wanted to withdraw that amount as this witness Sadanand had no connection with that amount. He has stated that the Applicant had used this account and had withdrawn the amount.

10. Learned counsel for the first informant submitted that the investigation showed that the cheques were deposited in the fake account in the name of Vasant Zipru Hire; then it was transferred to M/s. Shri Ganesh Impex; and also some amount was deposited in Sadanand's account from where it was withdrawn by the Applicant. Thus, from this material it is quite obvious that a serious offence is committed involving huge amount.

11. The informant's father was the real owner. He has not entered into the transaction. Based on this transaction, the possession of that land was taken by the third parties with the help of the present Applicant. It is mentioned so in the sale deed itself. Thus, the offence under section 3(1)(f),(g) of the Atrocities Act is clearly made out. There is definite and

serious incriminating material against the present Applicant. Therefore, he cannot be protected under section 438 of Cr.PC. as there is direct bar under Section 18 of the Atrocities Act. There is sufficiently strong material against the present Applicant. As far as the medical condition of the Appellant is concerned, the investigating agency will take steps in accordance with law to consider his health issue. Based on this discussion, no case for grant of any relief is made out. The Appeal is dismissed.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.04.18
18:32:35 +0530