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

CRIMINAL APPEAL NO.318 OF 2024

SACHIN KANTILAL GUJAR

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Adv. Subodh Desai a/w Adv. Saurabh Butala for the
appellant.

Smt. Megha S. Bajoria, APP for the State.

Adv. Hare Krishna Mishra for respondent No.2.

HC - S. S. Ashtamkar, Mahad SDPO office.

CORAM : M. S. KARNIK, J.

DATE : APRIL 17, 2024.

JUDGMENT :

1. Heard learned counsel for the appellant, learned APP
for the State and learned counsel for respondent No.2.

2. This is an appeal challenging the order dated
15.03.2024 passed by the trial Court rejecting the
application for bail. The appellant is the accused No.3 in
respect of C.R. No.I-68 of 2022 registered with MIDC Mahad
Police Station under Sections 120-B, 420, 465, 467, 468
and 471 of the Indian Penal Code (hereafter 'IPC' for short)
and under Sections 3(1)(f), 3(2)(va) of the Scheduled

Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Atrocities Act" for short).

3. The prosecution case is that the complainant belongs to Burud caste. The complainant alleged that he and the co-accused – Vishram Bhanji Patel had jointly purchased the property situated at Nadgaon Birwadi, Taluka Mahad, District Raigad, bearing Survey No.111/1 and Survey No.111/2 admeasuring 113 Gunthas from Shri Tukaram Ramji Mande by registered sale deed on 02.02.1988. The complainant is a farmer and hence the property was purchased on his certificate of farmer. On 03.05.2021, the Kotwal from the office of Talathi Saja Nadgaon, Taluka Birwadi, District Mahad had visited complainant's house with Vardi Notice. At that point of time the complainant came to know that co-accused – Vishram Bhanji Patel and Manji Bhanji Patel had sold the aforesaid joint owned property without permission of the complainant to the present appellant-accused No.3 on 09.07.2012 for a consideration of Rs.2,60,000/-. The complainant made inquiry in the Talathi office, Nadgaon, Birwadi and lodged

his objection with the office of Tahasil, Mahad. The complainant obtained photo copies of the sale deed and realised that the property bearing Survey No.111/1 and 111/2 was sold on the basis of fabricated affidavit and power of attorney. According to the complainant, he has not executed power of attorney in favour of Manji Bhanji Patel. It is the accusation that on the basis of false power of attorney and without consent of the complainant the said property was sold to the present appellant. The co-accused - Vishram Bhanji Patel had approved the said transaction. The power of attorney was prepared on a stamp paper of Rs.20/-. The signature of the complainant was forged. In the power of attorney, it is stated that the complainant has authorised the co-accused - Manji Bhanji Patel to sell the said property. The stamp paper used for preparing power of attorney was purchased in the name of person who had no connection with the transaction. It is the allegation that the co-accused and the appellant have acted in connivance with each other and executed the transaction. The property was thereafter leased to A. R. Developers by the present

appellant and the work of stone crushing was carried out causing damage to the property.

4. The application for anticipatory bail was preferred by the accused which was rejected right upto the Hon'ble Supreme Court. By an order dated 08.01.2024 the Hon'ble Supreme Court granted one week's time to surrender and move an application for grant of regular bail. The Hon'ble Supreme Court directed that the accused shall not be arrested for a period of one month from 08.01.2024. This Court in Criminal Appeal No.114 of 2024 filed by the appellants challenging the order dated 29.01.2024 rejected the application for regular bail, thereby did not interfere with the order passed by the trial Court. The appeal accordingly came to be rejected. The appellant was arrested on 09.02.2024. The charge-sheet is now filed on 02.03.2024. The investigation is complete.

5. Learned APP as well as learned counsel for respondent No.2 vehemently opposed the appeal for bail. It is submitted that this is a clear case of land grabbing. It is submitted that 113 Gunthas of valuable land of which the

complainant is the owner has been sold to the present appellant by the co-accused on the basis of forged and fabricated power of attorney and affidavit. Learned counsel for respondent No.2 invited my attention to the reply filed on behalf of the respondent No.2 to submit that at every stage the accused have committed forgery and even the signature of the complainant has been forged. Learned counsel for the respondent No.2 was at pains to point out that now the land has been transferred to a company called 'L and T'. They are causing damage to the said property. It is further submitted that the present appellant and the co-accused are hand in glove with each other and involved in similar such type of transactions whereby genuine landholders are deprived of their property by unfair means.

6. Heard learned counsel for the parties.

7. The suit property in question was originally purchased by the complainant and the co-accused - Vishram Bhanji Patel some time in 02.02.1988. It is the co-accused Vishram Bhanji Patel and Manji Bhanji Patel who sold the property to the present appellant by a sale deed dated

09.07.2012. All the documents in respect of which the forgery is alleged are already in possession of the investigating agency. From the allegations it appears that the major role is attributed to the other co-accused Vishram Bhanji Patel and Manji Bhanji Patel and prima facie it appears that the appellant is the purchaser of the suit property on the basis of a sale deed executed by the co-accused to the detriment of the complainant, who was also a co-owner of the property. The respondent No.2-complainant has also instituted proceedings before the competent Civil Court for appropriate reliefs challenging the sale deed and other consequential reliefs. It is always open for the respondent No.2 to avail of the appropriate remedies in law if it is his contention that the subsequent purchasers are not arraigned as accused or that the property has been illegally transferred in their favour by the appellant. However, in the facts and circumstances of the present case the appellant need not be detained in custody any further by way of a pre-trial punishment. The appellant will face the consequences of the trial if he is found guilty. These

observations not to influence the trial Court. Hence, the following order :-

ORDER

- (a) The appeal is allowed.
- (b) The impugned order dated 15.03.2024 passed by the trial Court is quashed and set aside.
- (c) The appellant-Sachin Kantilal Gujar in connection with C.R. No.I-68 of 2022 registered with MIDC Mahad Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.
- (d) The appellant shall attend the Investigating Officer of MIDC Mahad Police Station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (e) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.
- (f) On being released on bail, the appellant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The appellant shall not leave the country without the permission of the trial Court.

(i) The appellant shall surrender his passport to the Investigating Officer. If the appellant does not have a passport, he should file an affidavit to that effect before the trial Court within a period of two weeks of his release.

8. The appeal is disposed of.

(M. S. KARNIK, J.)