

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1359 OF 2023

Sanjay Krushna Katkar .. Appellant
Versus
The State of Maharashtra & Anr. .. Respondents

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Mr.Sanjeev Kadam with Mr.Prashant Raul, Mr.Mayur G. Sanap, Ms.Varsha Thorat,Ms.Chanda Gore i/b Mr.Sharad T. Bhosale for the Appellant.

Ms.Mahalakshmi Ganpathy, A.P.P. for the State/Respondent.

Mr.Raviraj Payamane with Mr.Atharva R.B. and Mr.Yash M. Naik i/b Vaibhav R. Gaikwad for the Respondent No.2.

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CORAM: BHARATI DANGRE, J.
DATED : 30th APRIL, 2024

P.C:-

1. The Appellant is arraigned as Accused No.4 in the charge-sheet filed, pursuant to the FIR being registered on 14/04/2022 with Dahiwadi Police Station, District Satara, for the offences punishable under Sections 193, 199, 200, 419, 420, 423, 205, 209, 467, 426, 465, 468, 471 read with Section 34 of the Indian Penal Code (for short, **“the IPC”**) and Sections 3(1)(f), 3(1)(g) and 3(1)(q) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, **“The Act of 1989”**).

The Appellant is arrested on 14/04/2022 and seek his release on bail on the ground of insufficient material in the charge-sheet and also on the ground of long incarceration. The ground that other co-accused are released on bail is also pressed into service by the learned counsel Mr.Sanjeev Kadam, representing the Appellant.

Ms.Mahalakshmi Ganapathy, the learned A.P.P. has invited my attention to the order dated 17/10/2022 and it is her submission that the Division Bench of this Court has not granted any relief, as a result, the Appeal was withdrawn. Upon this order being taken to the Hon'ble Supreme Court, even the SLP was disposed off, as withdrawn.

2. The Appellant face the accusations in the subject C.R., which is registered upon the information being furnished by Mahadev Piraji Bhise, alleging that the land bearing Gat No.769, 781 and 782 is an agricultural land and the same is cultivated by him alongwith his brother and he is farmer with marginal landholding and belongs to 'Mang' caste. His father, Piraji Vishnu Bhise passed away on 08/10/2016 at village Mayani and upon his death, the Complainant himself alongwith his brothers, Shankar, Hari, Vitthal, nephew Shubham and sisters Laxmi, Rukhmini and mother Namunabai are his legal heirs.

Adjacent to his land, is the land bearing Gat No.768, owned and cultivated by Mr.Jaykumar Gore, the President of the Chhatrapati Shivaji Education, Mayani and for getting approach road to the said institute from the land owned by

him, Mr.Jaykumar Gore had submitted an application to the Assistant Director, Town Planning, Satara.

In view of the Development Rules contemplated under 'Satara Pradeshik Yojana Vikas Niyantran', a 15 meters road was to be mandatorily maintained and Accused No.1, had executed an affidavit before the Tahsildar/Executive Magistrate, Man (Dahiwadi).

3. The Complainant alleged that though his father had expired on 08/10/2016, Accused Nos.1 to 3, forged certain document by impersonating the deceased and prepared the affidavit, which was submitted to the Assistant Director, Town Planning, Satara and Sub-Divisional office, with an intent to play fraud upon his family.

This came to the knowledge of the Complainant, when he compared the Aadhar Card Number of his father, Piraji with that of the person, who had impersonated deceased Piraji. It was alleged by him that though his father was illiterate and had no knowledge of English, the signature on the affidavit is in English and the photo affixed was not of his father.

The aforesaid complaint resulted in registration of C.R.No.92 of 2022.

4. The Appellant is alleged to be the person, who had impersonated Piraji and it is the submission of Mr.Kadam that on investigation being complete, the charge-sheet has been filed on 11/07/2022 and, therefore, his custody is unwarranted, pending the trial.

5. When I specifically asked the learned A.P.P. to show the material against the present Appellant, she would invite my attention to the statement of one Ushatai Sabale, Avval Karkoon, Tahsildar Office, Taluka Man, District Satara, who was handling the additional charge in Setu Centre and was assigned with the job of verification of the affidavits.

On being specifically asked with reference to C.R.No.92 of 2022 registered with Dahiwadi Police Station, Ushatai Sabale stated that the Affidavit No.4300 of 2020 dated 11/12/2020 bears her signature, when she was confronted with the colour xerox copy of the same. She state that the affidavit was prepared in her office and Piraji Vishnu Bhise and Jaykumar Gore, Chairman of Chhatrapati Shivaji Education Society, Kolhapur were present before her. She perused their Aadhar cards and confirmed that the persons present before her were the same, who had shown in the Aadhar cards. Similarly, two other persons were also present before her, whose identity was established through their Aadhar cards.

She was also confronted with the colour xerox copy of Affidavit No.6181 of 2021, bearing her signature and she state that both the affidavits were presented by Mr.Jaykumar Gore, Chairman of Chhatrapati Shivaji Education Society for conversion of the non-agricultural land. On being confronted with Affidavit No.4300 of 2020, she has identified the same.

In her supplementary statement, recorded more than a month after her original statement was recorded, she has stated that she was confronted with the Register, where Affidavit No.6181 of 2020 was registered and she was also confronted with the three affidavits and she stated that

Affidavit Nos.5964 to 6681 of which the note is taken in the Register maintained in Tahsil Office, Man, some affidavits had been presented before her and bears her signature. However, as regards Affidavit No.6181 of 2020, it is shown to be registered in the name of one Gol Dnyaneshwar Tayappa, whereas another affidavit by same number, is affirmed by Gore Jaykumar Bhagwanrao. In the Register, she state that Affidavit No.6223 is by one Indalkar Nutan Ram.

6. The said statement, in no sense, indicated that it is the Appellant, who filed the affidavit before her and one fail to understand, what is the role attributed to him, though he faces an accusation of impersonation, as the prosecution has alleged that his photograph was affixed alongwith the signature on the affidavit.

Impersonation would occur, when a person appears before an authority and projects himself as some other person, which he is not, but merely because his photograph was found on an affidavit, when Ushatai Sabale do not state that it is the Appellant, who has presented the affidavit and in fact when the person, who has presented the affidavit, i.e. Accused No.1, having been released on bail, there is no reason why the relief shall not be extended to the present Appellant.

As far as the order passed by the Division Bench on 17/10/2022 is concerned, liberty was conferred upon the Appellant to file an application, if the Additional Sessions Judge, Satara do not conclude the trial within one year. Admittedly, the trial has not commenced and, since, the

allegations are of forging some documents, which are already seized during the course of investigation, his further incarceration, pending the trial is unwarranted.

Since the main accused, who are alleged to have used these affidavits for their benefit, are already released on bail and, since, the learned A.P.P. is unable to point out any benefit that has accrued to the present Appellant, I deem it appropriate to direct his release on bail.

: ORDER :

- (a) The Appeal is allowed.
- (b) The impugned Order dated 31/07/2023 passed by the learned Additional Sessions Judge, Dist. Satara in Application below Exh.126 in Special Case No.140 of 2022, is quashed and set aside.
- (c) Appellant-Sanjay Krushna Katkar shall be released on bail in Special Case No.140 of 2022, arising out of C.R.No.92 of 2022 registered with Dahiwadi Police Station, Dist. Satara, on furnishing P.R.Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (d) The Appellant shall mark his attendance on first Monday of every trimester between 3.00 p.m. to 5.00 p.m.
- (e) The Appellant shall attend the trial on regular basis.
- (f) The Appellant shall provide his current address, telephone number, place of residence and intimate about the change if any, to the concerned Investigating Officer.
- (g) 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.

(SMT. BHARATI DANGRE, J.)