

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

CRIMINAL APPEAL NO. 445 OF 2024

Mr. Pravin Bhanji Patel

**....Appellant
(Orig. Accused No.4)**

V/s.

1. The State of Maharashtra
2. Chandrakant Balwant More

**....Respondents
(Orig. Complainant)**

Mr. Deepak Salvi, with Mr. Sahil Salvi, Mr. Sagar Redkar, Mr. Mahesh Vadlakond, *for the Appellant.*

Mr. Ashok Metkar, *APP for Respondent No.1-State.*

Ms. Kanchan Pawar, *Advocate appointed for Respondent No.2.*

Head Constable, Mr. S.S.Ashtankar, SDPO Office Mahad present.

CORAM : SANDEEP V. MARNE, J.

Dated : 10 June 2024.

P.C. :

1. This is an Appeal filed under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging the order dated 20 February 2024, passed by the Additional Sessions Judge, Mangaon-Raigad. The Sessions Judge has rejected the

application filed by the Appellant for bail in connection with C.R. No. 68/2022 registered with Mahad M.I.D.C Police Station for the offences punishable under Sections 120B, 420, 465, 467, 468 and 471 of the Indian Penal Code and under Section 3(1)(f) and 3(2)(Va) of the of the SCST Act.

2. The prosecution story is that the Complainant belongs to Burud Caste. Apparently, land bearing Survey No.111/1 and Survey No.111/2 admeasuring 113 gunthas was jointly purchased by the Complainant alongwith Vishram Bhanji Patel vide registered Sale-Deed dated 2 February 1988. The Complainant noticed in the year 2021 that Vishram Bhanji Patel in connivance with his brother Manji Bhanji Patel had sold the said jointly owned lands to accused No.3 on 9 July 2012 for consideration of Rs.2,60,000/-. The said Sale-Deed is shown to have been effected on the strength of forged Power of Attorney allegedly executed by the Complainant in favour of Manji Bhanji Patel. According to the Complainant, his signature on the said Power of Attorney is forged. The land appears to have been subsequently licensed to '*A.R. Developers*' for the work of stone crushing.

3. Appellant is the brother of Vishram Bhanji Patel and Manji Bhanji Patel. The role ascribed to him is essentially in connection with purchase of stamp paper of Rs.20/- on which the Power of Attorney of the Complainant in favour of Manji Bhanji Patel is shown to have been executed.

4. I have heard Mr. Salvi, the learned counsel appearing for the Appellant, Mr. Metkari, the learned APP appearing for the State and Ms. Pawar, the learned counsel appearing for Respondent No.2/Complainant.

5. After having considered the submissions canvassed by the learned counsel appearing for the parties, it appears that the crime in question is registered on account of transaction of sale of land admeasuring 113 gunthas which was jointly purchased by the Complainant alongwith Vishram Bhanji Patel. The land appears to have been sold to accused No.3 on 9 July 2012 by Vishram Bhanji Patel and Manji Bhanji Patel (relying on alleged Power of Attorney).

6. Appellant has been arrested on 11 February 2024 and has been in custody since then. The learned APP would confirm the position that investigations into the crime are already complete and all the necessary documents have already been recovered. He would further submit that chargesheet has been filed after completion of investigation on 2 March 2024.

7. It appears that Accused No.3-Sachin Kantilal Gujar who is the purchaser of the land by virtue of Sale-Dee dated 9 July 2012 had filed Criminal Appeal No. 318 of 2024 challenging the order passed by the Sessions Judge rejecting his application for bail. By order dated 17 April

2024, this Court allowed the Appeal and has enlarged Sachin Kantilal Gujar on bail. In para-7 of the order, this Court has observed as under:

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.”

8. Thus, while granting bail to purchaser, Sachin Kantilal Gujar, this Court has observed major role is attributed to the other co-accused, Vishram Bhanji Patel and Manji Bhanji Patel. This Court has also taken note

of the fact that the Complainant has initiated civil proceedings to seek declaration in respect of transaction of sale. It thus appears that major role is not ascribed to the Appellant herein, who is arrayed as an accused only on account of a stamp paper used for execution of Power of Attorney is shown to have been issued in the name of '*P.D. Patel*'. Without going into the factual dispute as to whether Appellant herein can be associated with the name of '*P.D. Patel*', in my view, the observations made by this Court in order dated 17 April 2024 about attributing major role to Vishram Bhanji Patel and Manji Bhanji Patel would come to the assistance of the Appellant.

9. All investigations into the crime are already complete and chargesheet has been filed. All the documents in respect of which forgery is alleged to have been committed, are already in possession of the investigating agency. There is no likelihood of the trial being concluded in immediate near future. In that view of the mater, in my view, the Appellant can also be enlarged on bail. I accordingly proceed to pass the following order :

(i) Appeal is allowed. The impugned order dated 20 February 2024 passed by the Additional Sessions Judge, Mangaon-Raigad is set aside.

(ii) The Appellant-Pravin Bhanji Patel arrested in connection with C.R. No. 68/2022 registered with Mahad M.I.D.C Police Station for the offences punishable under Sections 120B, 420,

465, 467, 468 and 471 of the Indian Penal Code and under Section 3(1)(f) and 3(2)(Va) of the of the SCST Act, shall be released on bail on furnishing P.R. Bond in the sum of Rs.1,00,000/- with one or more local sureties in the like amount.

(iii) The Appellant shall attend the Investigation Officer of the MIDC Mahad Police Station once in a month every first Monday of the month between 11.00 am. to 1.00 p.m.

(iv) 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 the court or any police officer. The Appellant shall not tamper with the evidence.

(v) 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.

(vi) Unless exempted, Appellant shall attend the Trial Court regularly. The Appellant shall co-operate with the Trial Court and shall not seek unnecessary adjournments.

(vii) The Appellant shall not leave the country without the permission of the Trial Court.

(viii) The Appellant shall surrender his passport to the Investigation Officer, if the Appellant does not have a passport, he shall file an Affidavit to that effect before the Trial Court within a period of two weeks of his release.

10. The Appeal is accordingly **allowed and disposed of.**

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[SANDEEP V. MARNE, J.]