

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

CRIMINAL APPEAL NO.615 OF 2024

Dilip Ramchandra Pawar
V/S

....Appellant

The State of Maharashtra & Anr.

....Respondents

Mr. Saurabh D. Bhutala a/w Ms. Manvi Sharma *for the Appellant.*
Ms. Shilpa G. Talhar, APP *for Respondent No.1/State.*
Mr. Hare Krishna Mishra *for Respondent No.2-Complainant.*

*Mr. Shankar Kale, SDPO, Mahad, HC 1126 and Mr. S.S. Ashstamkar,
SDPO Office, Mahad.*

CORAM: SANDEEP V. MARNE, J.
DATE : 07 AUGUST 2024.

P.C.:

1 This is an Appeal filed under the provisions of section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging order dated 5 June 2024 passed by Additional Sessions Judge, Mangaon-Raigad rejecting the Application filed by the Appellant for bail under section 439 of the Code of Criminal Procedure, 1973 in connection with C.R. No.68 of 2022 registered with Mahad MIDC Police Station for offences punishable under sections 120B, 420, 465, 467, 468 and 471 of the Indian Penal Code (**IPC**) and under sections 3(1)(f) and 3(2)(va) of the SC & ST Act.

2 Appellant is arraigned as accused No.5. The FIR emanates out of transaction of alleged unauthorized sale of the land in question by accused Nos.1 and 2 by relying upon power of attorney dated 25 June 1992 of the Complainant which is now alleged to be forged. The prosecution story is that – accused No.1 and Complainant jointly owned the land in question and that the same is sold by accused Nos.1 and 2 to the exclusion of the Complainant by relying upon forged power of attorney. The purchaser of the land accused No.3 has already been granted bail by this Court vide order dated 17 April 2024 passed in Criminal Appeal No.318 of 2024. So far as accused No.4 is concerned, his role was limited to procurement of the stamp paper. Accused No.4 is also granted bail by this Court by order dated 10 June 2024 passed in Criminal Appeal No.445 of 2024.

3 So far as the present Appellant is concerned, his role is with regard to identifying the signatory to the power of attorney by signing as witness thereon. Except the said role of signing as witness on the power of attorney, no other role is assigned to the Appellant.

4 The learned counsel appearing for second Respondent would submit that the Appellant has aggravated the crime by filing false affidavit dated 20 January 2022 with a view to assist accused Nos.1 and 2 to secure bail. That in that affidavit Appellant falsely claimed that the power of attorney dated 25 June 1992 has been correctly executed by the Complainant. It is therefore sought to be suggested that the present Appellant has actively assisted accused Nos.1 and 2 for securing their bail in their favour. Be that as it may. Appellant's conduct after lodging of FIR in seeking to prove genuineness of the power of attorney is not really relevant at this stage.

What is relevant is the fact that the Appellant is in custody since 12 February 2024 and by now period of almost six long months has elapsed. Appellant is aged 60 years and *prima facie* may not a beneficiary in respect of the transaction in question. Appellant admittedly does not have any antecedents against him. This Court has already released accused Nos.3 and 4 on bail. In that view of the matter, Appellant deserves to be released on bail considering the fact that he has spent almost six long months in the custody.

5 I accordingly proceed to pass the following order:

ORDER

- i) The Appeal accordingly succeeds. Order dated 5 June 2024 passed by the Additional Sessions Judge, Mangaon-Raigad is set aside.
- ii) The Appellant shall be released on bail in connection with C.R. No.68 of 2022 registered with Mahad MIDC Police Station for offences punishable under sections 120B, 420, 465, 467, 468 and 471 of the IPC and under sections 3(1)(f) and 3(2)(va) of the SC & ST Act, on furnishing bail bonds in the sum of Rs. 1,00,000/- with one or more local sureties in the like amount.
- iii) The Appellant shall attend the Investigating Officer of the Mahad MIDC Police Station once in a month every first Monday of the month between 11.00 a.m. 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, the 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 Investigating 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.

6 With the above directions, the Appeal is allowed and disposed of.

7 It is made clear that in the event the Appellant is found be indulging in threatening the Complainant or any other witness associated with the case, prosecution would be at liberty to apply for cancellation of bail.