

Uday S. Jagtap

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

CRIMINAL APPEAL NO. 1040 OF 2024

Mallappa Janappa Bansode .. Appellant
Vs.
The State of Maharashtra and others .. Respondents

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Mr. Ghansham Jadhav, for appellant
Ms. Anamika Malhotra, A.P.P, for Respondent No.1 – State
Mr. Satyavrat Joshi i/b Samay S. Pawar for respondent nos. 2
to 4
Mr. Sunil Salunkhe, S.D.P.O. present in Court

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 21st JANUARY, 2025.

P.C.

1. On 20th January, 2025, this Court had passed the following order:-

“1. The Sub Divisional Police Officer, Jat Sub Division, District Sangli appears to have given authority letter dated 20th January, 2025 to Assistant Police Inspector – Mr. Jadhav to appear on his behalf in this Court since he is stated to be busy in respect of investigation in Crime No.10 of 2025 for the offences punishable under sections 376, 376 (2), 376 (n), 313, 504 and 506 of the Indian Penal Code and sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and section 3 (1) (r), 3 (1) (s), 3 (1) (w) (i) and 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act), 1989 (For short “SC ST Act”). Such conduct of the SDPO is highly deprecated as Division Bench of this Court in

*Criminal Writ Petition (Stamp) No.18530 of 2023 on 29th August, 2024 specifically observed in paragraph 3 about illegalities committed by this officer during investigation. In the said order, this Court has directed the Registry of this Court to place the matter before the Hon'ble the Chief Justice for taking appropriate action on the administrative side against the learned Special Judge who had, in clear violation of the judgment of the Supreme Court in case of **Hariram Bhambhi Vs. Satyanarayan, AIR 2021 Supreme Court 5610**, granted bail to the respondent Nos.2 to 4 – accused by passing one line cryptic order without giving an opportunity of being heard to the victims as mandatory in sub-section (5) of Section 15A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989. The Division Bench, inter alia, granted liberty to the victim to prefer an appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 that is how the present appeal has been preferred by the appellant.*

2. I heard Mr. Joshi, learned Counsel appearing for respondent Nos.2 to 4.

*3. Issue show cause notice to the respondent Nos. 2 to 4 as to why bail granted to them by the Special Judge by the impugned order dated 2nd July, 2024 should not be cancelled? The Notice shall be made returnable on **21st January, 2025**.*

4. The conduct of the SDPO is also not free from doubt. It appears that he has neglected his duties as contemplated in section 4 of the SC ST Act. It is not clear whether the Investigating Officer had read out information to the informant and after reducing it into writing obtained the signature of the informant. It is also not clear whether copy of the information so recorded has been forthwith given to the informant as provided in sub-section (1) clause (c) of Section 4 and sub-section (9) of section 15A of the Act. Apart from the aforesaid legal aspects, the State shall inform this

Court whether rights of the victims as contemplated in sub-section (6), (7), (8) and (9) of Section 15A of the SC ST Act have been complied with or otherwise.

5. The SDPO shall remain present before this Court tomorrow i.e 21st January, 2025 at 10.30 a.m without giving any excuses, failing which, appropriate steps in accordance with law will be taken. The respondent Nos.2 to 4 shall also file their response, if any, to the show cause notice tomorrow by 2.30 p.m.

6. Stand over to 21st January, 2025.”

2. Learned APP, at the outset, does admit that in this matter certain provisions of Section 15(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 had not been complied with by the SDPO, especially Section 10 which mandates video recordings of all the proceedings relating to the offence under this Act apart from other provisions.

3. Upon being asked to produce the case diary of the matter, the S.D.P.O. has tendered photostat copy of the case diary, comprising of only three pages. It cannot be said to be a case diary, in the sense, three loose sheets of paper are stapled and presented before the Court. This is quite strange. This Court has time and again mandated as to how a case diary is to be

maintained. The photostat copy of the case diary does not reveal a faithful history of the investigation said to have been conducted by S.D.P.O. Mr. Sunil Salunkhe. The original case diary shall be produced before this Court for perusal on 22nd January, 2025.

4. Several lacunae which have been noticed, had already been stated in para 4 of the order dated 20th January, 2025. The S.D.P.O. could not answer several queries made by this Court in respect of the observations made in para 4. However, he candidly admits that certain provisions of Section 15A of the said Act have not been complied with.

5. As a matter of fact, action against the S.D.P.O. can be initiated in view of Section 4 of the Act. I leave it to the learned Special Judge to take necessary steps in that regard after considering the proviso to Section 4 and Sub-Section 3 thereof.

5. List tomorrow i.e. on **22nd January, 2025** at 2:30 p.m.

(PRITHVIRAJ K. CHAVAN, J.)