

Prashant Dagajirao Patil vs Vaibhav @ Sonu Arun Pawar on 19 January, 2021

Bench: N.V. Ramana, Surya Kant, Aniruddha Bose

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.55-56/2021
(@SPECIAL LEAVE PETITION(CRL.) NOS.5038-5039 OF 2020)

PRASHANT DAGAJIRAO PATIL

..... APPELLANT(S)

VS

VAIBHAV@SONU ARUN PAWAR AND ANR.ETC.

...RESPONDENT(S)

O R D E R

The Court is convened through Video Conferencing. Leave granted.

The present appeals are filed by the Appellant– complainant against the common impugned interim order dated 28.08.2020 passed by the Bombay High Court Bench at Aurangabad whereby, while hearing the bail application of the Respondents-accused herein, the High Court directed the Investigating Officer to examine CCTV footage and submit his report before the Court. Aggrieved by the said order, the Appellant-complainant has challenged the same before this Court by way of Special Leave.

The learned counsel for the Appellant submits that the High Court should not conduct a mini trial while hearing a bail application. The defense of the Respondents-accused would be examined in full detail during the trial, and should not be pre-decided by the High Court during bail proceedings. Any orders passed by the High Court in relation to such an issue would prejudice the trial. The learned counsel for Respondent No. 2- State supported the submissions of the Appellant and further submitted that such a course of action would set a bad precedent.

On the other hand, the learned counsel for the Respondents-accused submitted that they had been in jail for nearly 2 years, and that an examination of the CCTV footage would prove that they were not present at the time of the incident. They further submitted that due to the pendency of the proceedings before this Court, the High Court has not decided their bail applications. Heard the learned counsel for the parties. A detailed conspectus of the facts of this case are not necessary for the disposal of the present appeals. However, for the sake of completeness, some facts might be

highlighted. The First Information Report regarding the present incident was registered on 09.06.2018 against eight individuals, including the respondents-accused herein, under Sections 302, 307, 349, 120(B), 101, 143, 147, 148 and 149, IPC along with Sections 4 and 25 of the Indian Arms Act and Sections 37(1)(3) and 135 of the Maharashtra Police Act. The allegation is that the accused persons threatened the Appellant-complainant and his family two days prior to the incident, which took place on 08.06.2018, in the evening. At the time of the incident, the Appellant-complainant allegedly saw some of the accused persons block the car of his elder brother and his nephew. Then all the accused persons, including the Respondents-accused herein, assaulted the two persons with dangerous weapons. The Appellant-complainant's elder brother and nephew allegedly passed away due to the injuries sustained in the incident.

Subsequent to their arrest, the Respondents-accused filed bail applications before the Trial Court which have all seemingly been rejected on various grounds including the nature of the allegations against them. The Respondents-accused have therefore moved the High Court for bail, in which proceedings the impugned interim order has been passed.

A perusal of the impugned order indicates that the directions regarding the CCTV footage were made by the High Court on submissions by the counsel for the Respondents-accused before the High Court that they wished to rely on the same to prove their non-participation in the alleged incident. While the learned counsel for the Respondents-accused have attempted to submit before us that such an exercise is necessary, we are not in agreement with the same. When only the limited issue of grant of regular bail to the accused is pending consideration before the High Court, it was not appropriate for it to pass the aforesaid directions which will have a direct bearing upon the trial.

Thus, we are of the considered view that the direction of the High Court directing the Investigating Officer to examine the CCTV footage and to submit a report, is not sustainable in the eyes of law and deserves to be set aside.

We, accordingly, set aside the common impugned interim order of the High Court and request the said Court to consider the bail applications of the Respondents-accused pending before it, expeditiously, on its own merits and in accordance with law. It is made clear that we have not expressed anything on the merits of the matter.

The appeals are allowed in the afore-stated terms.

.....J (N.V.RAMANA)J (SURYA KANT)J
(ANIRUDDHA BOSE) NEW DELHI;

19TH JANUARY, 2021

ITEM NO.9

Court 2 (Video Conferencing)

SECTION II-A

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petitions for Special Leave to Appeal (Crl.)

Nos.5038-5039/2020

(Arising out of impugned final judgment and order dated 28-08-2020 in BA No. 1122/2019 and BA No. 25/2020 passed by the High Court of Judicature at Bombay at Aurangabad) PRASHANT DAGAJIRAO PATIL Petitioner(s) VERSUS VAIBHAV @ SONU ARUN PAWAR & ANR. ETC. Respondent(s) Date : 19-01-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE ANIRUDDHA BOSE For Petitioner(s) Mr. Sandeep
Sudhakar Deshmukh, AOR For Respondent(s) Mr. Nishant Ramakantrao
Katneshwarkar, AOR Mr. Rahul Chitnis, Adv.

Mr. Sachin Patil, AOR Mr. Aaditya A. Pande, Adv. Mr. Geo Joseph, Adv.

Mr. K. Parameshwar, Adv. Mr. Kailas Bajirao Autade, AOR Mr. M.V. Mukunda, Adv.

Mr. A. Sregurupriya, Adv. Ms. Sheetal Patil, Adv.

Mr. Prashant Shantaram Chaudhari, Adv.

UPON hearing the counsel the Court made the following O R D E R The Court is
convened through Video Conferencing.

Leave granted.

The Appeals are allowed in terms of the signed order.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(RAJ RANI NEGI)
DY. REGISTRAR

(Signed Order is placed on the file)