

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

CRIMINAL WRIT PETITION NO. 4471 OF 2015

Shaikh Mohd Hussain Usman Gani .. Petitioner

Versus

The State of Maharashtra & Anr. .. Respondents

Mr. Ayaz Khan, for the Petitioner.

Mr. K.V. Saste, APP for the State.

**CORAM : RANJIT MORE &
V.L. ACHLIYA, JJ.**

DATE : 16th DECEMBER, 2015

P.C. :

1 . Heard Mr. Khan, learned Counsel for the Petitioner, Mr. Saste, learned APP and Mr. Abdul Hamid E. Khan, Branch Manager of Respondent No. 2 -Bombay Mercantile Cooperative Bank Limited. We have also heard Investigating Officer - Mr. D.B. Sarak, Police Inspector, Railway Police Station Akola, who was investigating the crime which was the subject matter of NDPS special Case No. 72 of 2000 along with NDPS Special Case No. 31 of 2001.

2. By way of this petition, the petitioner is seeking permission to operate his Bank Account with Respondent No. 2 and

withdraw the money which is lying in the Saving Account No. 38103. The Petitioner/Accused No. 2 came to be convicted in the year 2001 in NDPS special Case No. 72 of 2000 along with NDPS Special Case No. 31 of 2001 by the Special Court taking NDPS matters. The convict thereafter preferred Criminal Appeal No. 20 of 2002 before this Court challenging the order of the Trial Court. The learned Single Judge who disposed of the said Appeal by Judgment and order dated 22nd April, 2010 allowed the Petitioner's Appeal, and his conviction and sentence came to be quashed and set aside.

3. Mr. Saste on instructions of learned Investigating Officer-Mr. Sarak, makes a statement that the order passed by the Appellate Court was not further challenged.

4. The Branch Manager of Respondent No. 2 has filed an Affidavit dated 16th December 2015. In paragraphs 10, 11 and 12, he has made following averments, which are reproduced herein below:-

“(10) I say that the Petitioner may obtain appropriate Order from the office of the Narcotic Cell to operate, make transactions including withdrawals from Savings Account i.e. A/c No. 38103 in the name of the Petitioner.

(11) I further say that this Hon'ble High Court may pass

appropriate Orders as to whether the Petitioner should be permitted to operate, make transactions including withdrawal of amounts from the Savings Account i.e. A/c. No. 38103 in the name of the Petitioner.

(12) I say that this Hon'ble Court may pass appropriate Orders and the same will be complied with."

5. Above referred Bank Account was freezed by the Investigating Officer pending the trial. Since Petitioner is acquitted of the said offences and no further appeal is preferred by the State, we allow this Petition in terms of prayer clause (a). Consequently the Petitioner is allowed to operate the Bank Account.

7. In view of the above, the writ petition stands disposed of.

[V.L. ACHLIYA, J.]

[RANJIT MORE, J.]