

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2222 OF 2016**

Mr. Tejas Jitendrakumar Shah	..Petitioner
Versus	
The State of Maharashtra and anr.	..Respondents

Mr. K. K. Tiwari, advocate for the petitioner.
Mr. S. R. Shinde, APP for the State.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-
JOSHI, JJ.**

DATE : 9th NOVEMBER, 2017.

P. C. :

Heard learned counsel for the petitioner and learned APP
for the State.

2. The petition is filed seeking direction to the respondent No.2 to de-freeze the bank account of the petitioner bearing No.00011140056866 maintained at HDFC Bank, Powai, Mumbai.

3. The FIR bearing CR No. 281 of 2015 is filed at the instance of the complainant - Mr. Sanjay Kamble, Director of Tridisha Advertisement Marketing and Consultancy Private Limited against Mr.Sameer Mohammed Shaikh, his wife -Ms.Alina Sameer Shaikh and

one Anwar Hussein Shabsudin Shaikh for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860. The allegations in the FIR are that the accused – Sameer Mohammed Shaikh represented the complainant that there is 15 acres of land at Shahapur Murbad for sale @ Rs.75,00,000/- per acre. Thereafter, the complainant agreed to purchase 11 acres of land @ Rs.75,00,000/- per acre for an amount of Rs.8,25,00,000/-. The accused – Sameer Mohammed Shaikh represented to the complainant that he has to pay an advance amount of Rs.2,00,00,000/-. The complainant, accordingly, paid an amount of Rs.1,94,00,000/- to the accused. The allegations further proceed that despite payment of the advance money to the accused, the sale of the said land was not completed and this amount was misappropriated and, therefore, the above said offence against the said accused is registered.

4. During investigation, it was revealed that out of the amount of Rs.1,94,00,000/-, the amount of Rs.41,00,000/- was spent by the accused for the purchase of a flat belonging to the petitioner. The investigation also revealed that this amount of Rs.41,00,000/- was credited by the accused to the petitioner's subject bank account. Since the crime proceeds were deposited in the petitioner's said account, the Police Inspector, Nehru Nagar Police Station attached the petitioner's

subject account under the provisions of Section 91 of the Code of Criminal Procedure, 1973.

5. The petitioner has annexed a copy of the sale deed dated 5th August, 2015, at page 48 of the petition. Perusal of the same reveals that it was executed between the petitioner and one Mrs. Alina Sameer Shaikh, wife of Sameer Mohammed Shaikh. The sale deed also discloses that the flat of the petitioner admeasuring about 385 Sq.Feet (carpet) is sold to Ms. Alina Sameer Shaikh for consideration of Rs.41,00,000/- and the said amount was credited by Ms. Alina Sameer Shaikh in the petitioner's said account. The record reveals that the said flat originally belonging to the petitioner and purchased by the accused is already attached by the investigating agency. The petitioner is neither an accused nor a witness. The petitioner seems to be a victim of the circumstances. The petitioner cannot be made to lose his flat and money also. The petitioner was not under obligation to enquire about the source of money as to from where the purchaser raised funds for purchase of the said flat.

6. The investigation is completed and charge-sheet is also filed before the concerned Court. The report dated 9th November, 2017 filed by the Senior Police Inspector, Nehru Nagar Police Station, revealed

that the petitioner has no concern in the subject crime. In the circumstances, the impugned order cannot be sustained. The petition is, accordingly, disposed off by passing the following order :

1. The Police Inspector (Crime), Nehru Nagar Police State is directed to de-freeze bank account of the petitioner bearing No.00011140056866 maintained at HDFC Bank, Powai, Mumbai.
2. The entire exercise shall be completed within a period of eight days from the date of receipt of this order.

The petition stands disposed off.

7. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]