

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

CRIMINAL APPEAL NO.1073 OF 2017

Balu Ganpat Borate & Ors.

.... Appellants

versus

The State of Maharashtra

... Respondents

.....

- Mr.Datta H. Pawar, Advocate for the Appellants.
- Mrs.M.M. Deshmukh, APP for the State/Respondent.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.**
DATE : 05th JULY, 2018.

P.C. :

1. Admit.
2. Taken up for final hearing.
3. The Appellant challenges the order passed by the learned Trial Judge dated 07/12/2017 thereby imposing certain conditions while releasing the property from attachment u/s 7 (6) Section 9 of the MPID Act.

4. Undisputedly, the property in question is owned by the Appellants. However, the same was given on leave and license basis to one Sai Prasad Properties Ltd. which is a financial establishment concern under whom action is being taken under the MPID Act. Subsequently the same was given under leave and license agreement to Futureready Wordwide Marketting, which is sister company of the Appellants.
5. It appears that the Respondent had filed the proceedings for attachment of the property, which is the subject matter of the present Appeal. The Appellants filed the objection thereto. The Appellants submitted that they are ready to deposit the security amount. However, by the impugned order while releasing property from attachment, the learned Trial Judge has imposed condition of depositing security amount of Rs.2 lakhs and further rent of Rs.23,000/- p.m. for the period 01/02/2013 to 31/01/2015 and Rs.24,725/- p.m. for the period 01/02/2015 to 31/12/2015.

6. The Appellants have already deposited the security deposit of Rs.2 lakhs. We find that it is only the security deposit of Rs.2 lakhs which the Appellant had received as a security deposit towards the leave and license agreement can be considered to be a property of the Sai Prasad Properties Ltd. which is a financial establishment. The rent which was received by the Appellants from the said financial institute was towards the property given by him on leave and license agreement. As such it is only the Appellants, who would be entitled to that amount.

7. We therefore allow the Appeal. The condition which directs the Appellants to pay the rent amount of Rs.23,000/- p.m. for the period 01/02/2013 to 31/01/2015 and Rs.24,725/- p.m. for the period 01/02/2015 to 31/12/2015 is quashed and set aside.

8. It is needless to state that the amount of Rs.2 lakhs is already deposited by the Appellants.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)