

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

CRIMINAL WRIT PETITION NO.512 OF 2019

Shankar Laxman Tanpure

... Petitioner

Vs

The State of Maharashtra

... Respondent

Mr.Satyavrat Joshi i/b Sumant Deshpande for the Petitioner

Ms.Veera Shinde, APP, for the Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: MARCH 18, 2019

P.C.:

1. This Writ Petition is directed against the order dated 10.1.2019 passed by the learned Additional Sessions Judge and Special Judge, ACB, below exhibit 12 of the Special Case No.7 of 2015. The application is moved for return of the property pending trial. The applicant/accused is prosecuted for the offences punishable under section 13(1)(d) r/w section 13(2) of Prevention of Corruption Act in C.R. No.8 of 2015 registered with the Virar Police Station. He was trapped while taking bribe of Rs.1,300/- on 28.3.2015 in the house search. During the said house search, cash amount of Rs.10,70,000/- was found in his house. The police

seized the said amount during the pendency of the trial. The applicant moved application and submitted that he owes Rs.10,70,000/- and he has borrowed Rs.10 lakhs from one Prashant D. Jadhav on 26.2.2015. The learned Judge has rejected the said application. Hence, this Writ Petition.

2. The learned Counsel has submitted that he has produced the agreement dated 25.2.2015 which was executed between the present applicant/accused and one Shri Prashant D. Jadhav, where it is mentioned that he lent money of Rs.10 lakhs to the applicant/accused to buy the house. The amount was paid by cash. The learned Counsel showed the balance sheet of Shri Prashant D. Jadhav in the Income Tax returns where the name of the applicant is mentioned in the assets column and the amount is shown as Rs.10 lakhs. My attention is drawn to the police report wherein the police have given no objection to the return said amount.

3. Learned Prosecutor has submitted that the prosecution has no objection to return the said money as it was seized during the house search of the applicant/accused.

4. Considered the submissions. Perused the order passed by the learned Judge. One Salil Bhosale, P.I. from ACB has submitted report dated 11.12.2017 in District Court, Vasai, Palghar. In the last two paragraphs, the Investigating Officer has mentioned that the enquiry in respect of disproportionate assets against the applicant/accused is closed and the police have no objection to return the said amount of Rs.10,70,000/- to the accused which was seized during the house search.

5. In view of this, the impugned order passed by the learned Special Judge is set aside and the amount of Rs.10,70,000/- shall be returned to the applicant/accused with a usual undertaking from the applicant.

6. Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)