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IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO.1686 OF 2018**IN**CRIMINAL APPLICATION NO.320 OF 2011**IN**CRIMINAL APPEAL NO.108 O 2018*

John Manmohan Bangera ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Ms.Priyanka Patil for the applicant in APPA/1686/2018.

Mr.S.V.Gavand, APP for respondent-State.

CORAM : NITIN W.SAMBRE, J.***DATE : NOVEMBER 5, 2019*****P.C. :-**

Heard respective counsel.

2. The applicant claims that the financial liability arising out of the crime in question in which he is already discharged, deposit of Rs.2,63,85,824/- was made. From the said amount towards the dues payable to the investors, a substantial amount was discharged but for the dues to be paid to three investors whose whereabouts are not known. It is claimed that dues payable to the aforesaid three investors

whose whereabouts are not available is to the tune of Rs.8,97,000/- and even if the said amount is kept with the Registry as per the calculation, the balance amount of Rs.9,38,107.19 is required to be refunded to the applicant.

3. The prayer for refund is objected on the ground that the trial against the co-accused is already pending. Even if the applicant is discharged, the financial liability could be fastened on the applicant. It is also claimed that if the Court intends to grant withdrawal of the amount, the same be subject to an undertaking that in case if any future liability is worked out against the applicant, he shall make good the said liability by depositing the amount in this Court within a period of eight weeks from the date of the said order.

4. Considered rival submissions.

5. Pursuant to the prayer clause (a) of the application, learned APP and learned counsel for the applicant are in agreement that the Section Officer, Nazir Department has given appropriate calculations thereby disclosing the amount disbursed to 111 investors and the balance amount remained to be paid to three investors whose whereabouts are not known.

6. In the aforesaid background, the application can be

allowed subject to condition that in case if any future liability is fastened on the applicant, he shall make good the said liability within a period of eight weeks.

7. The applicant is permitted to withdraw the amount of Rs.9,38,107.19 as is reflected in the calculation given by the Section Officer, Nazir Department of this Court.

8. As far as the amount of Rs.8,97,000/- to be paid to the three investors whose whereabouts are not known is concerned, the same be kept in fixed deposit initially for a period of three years in any nationalised bank.

9. The application stands allowed in above terms.

(NITIN W.SAMBRE, J.)