

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.4 OF 2021

SHRIDHAR UDDHAVRAO KOLAPE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. E. G. Irale, Advocate for the applicant.
Mr. N. T. Bhagat, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 4th March, 2021

ORDER :-

. Present application has been filed by original accused No.1, who came to be arrested on 26.04.2016 in connection with Crime No.110 of 2015 registered with Nilanga Police Station, Taluka Nilanga, District Latur for the offences punishable under Sections 420, 406, 409, 109, 201 read with 34 of Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred as the 'MPID Act').

2. Heard learned Advocate Mr. E. G. Irale for the applicant and learned APP Mr. N. T. Bhagat for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. It is to be noted that the application, which was filed before the learned Special Judge under the MPID Act under Section 439 of the Code of Criminal Procedure by the applicant, was on the ground that in the outbreak of pandemic situation due to Covid-19, he should be released on bail, but then the fact that is required to be taken into consideration is that on earlier several occasions, his bail application under Section 439 of the Code of Criminal Procedure is stated to have been rejected up to Hon'ble Apex Court. Therefore, consideration of bail application once again on merits will not arise. It will not be out of place to mention here that this Court had already conditionally granted bail to the present applicant and condition was imposed regarding deposit of the amount of Rs.75,00,000/-. He had approached Hon'ble Apex Court for relaxation of that condition and it appears that some condition has been relaxed by the Hon'ble Apex Court, but it was not altogether of not depositing any amount. That order is not made available now before this Court, but a reference of the same can be found in the order that was passed by the learned Special Judge on 12.02.2020. That means, when already bail has been granted to the applicant on condition and in spite of relaxing that condition also, if the applicant is not fulfilling that condition, his present bail application under Section 439 of the Code of Criminal Procedure is not

maintainable at all.

4. Present status of the case was called i.e. Special Case (MPID) No.01 of 2016 from the learned Special Judge, Nilanga to whom now it appears that the matter is transpired. In that status report, it is mentioned that while granting bail, the condition which was imposed by this Court of depositing amount of Rs.75,00,000/-, was relaxed by the Hon'ble Apex Court in Special Leave Petition (Cri.) Diary No(s).35850 of 2018 on 10.10.2018 and then the applicant was given liberty to deposit amount of Rs.50,00,000/-, however, the applicant – accused has deposited only amount of Rs.15,00,000/- on 15.02.2019 and thereafter, Rs.4,00,000/- on 29.02.2019 and under such circumstance, when he failed to deposit the rest of the amount, the Special Leave Petition was dismissed by the Hon'ble Apex Court on 18.02.2019. Therefore, this application itself is not maintainable.

5. Another fact that is also required to be noted is that it is mentioned in the said status report by the said learned Special Judge that the accused person though not cleared as to whether the present applicant but some of the accused appeared to have filed Criminal Writ Petition Nos.1467 to 1470 of 2017 before this Court, in that proceeding the record and proceedings has been sent by the concerned Court to this

Court on 20.01.2018 and the matter is not progressed since then. Thus, it is to be noted that when the accused themselves have come before this Court and in pursuant to their request, if the record is called, then the concerned Court cannot be blamed for not taking up trial. It is for the present accused to move the said writ petitions for early hearing or may request the concerned Bench to send back the record and proceedings so that the trial can proceed. Since there is no merit in the present application, it deserves to be dismissed. Accordingly, present application stands dismissed.

[SMT. VIBHA KANKANWADI, J.]

scm