

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.93 OF 2020

**BHARAT JAGANNATH PATIL
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...
Advocate for Applicant : Mr. Wakale Shriraj R.
APP for Respondents/State: Mrs. R.P. Gaur
...

CORAM : MANGESH S. PATIL, J.

DATE : 03.07.2021

PER COURT :

The applicant who is an accused in a criminal proceeding concerning misappropriation etc. and the offence punishable under the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short the MPID Act) is impugning the order passed by the learned trial court whereby his request for allowing the personal account to be operated which has been seized by the Investigating Officer has been partly allowed and he has been allowed to withdraw the amount of monthly salary only from November 2019 onwards.

2. The learned advocate for the applicant submits that the applicant's personal account has been seized by the Investigating Officer. He wants the money for the marriage of his daughter. The auditor has specifically mentioned in his report about involvement of the applicant only to the extent of an amount of around Rs.15,00,000/- allegedly

misappropriated during his tenure as the Director of the Credit Cooperative Society. He would submit that already he has deposited some money pursuant to the condition imposed by the Court while granting him bail. There is no point in allowing his account to be under seizure/attachment. An amount of around Rs.2,00,000/- was standing to his credit on the date when it was attached. He is being deprived of using the money unnecessarily and the impugned order be quashed and set aside.

3. The learned APP opposes the Application. She submits that under an enabling provision under the MPID Act, the Investigating Officer has exercised the power and attached the personal account of the applicant, which would now be subject to the final out come of the trial. Already he has been allowed to withdraw his salary from that account and he should remain contended.

4. Since the applicant is seeking quashment of the impugned order, a query was put to the learned advocate for the applicant as to what is the apparent perversity, illegality or arbitrariness in the impugned order. The learned advocate only endeavoured to point out as to how he cannot be attributed with misappropriation of the entire amount.

5. There cannot be any dispute about the powers of an Investigating Officer undertaking investigation in respect of the offence punishable under the MPID Act which includes the power to attach the property. If that be so, one cannot comprehend as to how such power to investigate can be indirectly questioned in the present proceeding.

6. Besides, the learned trial court, for the plausible reason recorded, has taken a liberal view and has allowed the applicant to withdraw the salary being deposited in the attached account. Over and above, the applicant is now seeking that he may be allowed to use the money which stood credited in his account prior to such attachment. This would indeed tantamount to releasing the attachment. I have a serious doubt as to if while the matter is before the trial court any such order could be passed.

7. *Prima facie*, there is no illegality, perversity or arbitrariness in the impugned order which would enable this Court to exercise the power under Section 482 of the Code of Criminal Procedure.

8. The Application is rejected.

(MANGESH S. PATIL, J.)