

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 662 OF 2021

Bank of Maharashtra

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr.Sanjeev Kadam a/w. Mr.Sameer Mhatre for Petitioner.
Mr.Amit Palkar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 11th March 2021.

PC. :

By the present Petition, the petitioner has impugned Order dated 27th August 2019 passed by the learned Additional Chief Judicial Magistrate, Pune, below Exh.1, in Criminal Misc. Application No.2312 of 2017, thereby directing the Investigating Officer to open a separate account and deposit the seized amount therein. The petitioner has also impugned Order dated 22nd January 2020, thereby dismissing its Criminal Revision Application No. 498 of 2019 and confirming the Order dated 27th August 2019.

2. Heard Mr.Kadam, learned counsel for the petitioner and Mr.Palkar, learned A.P.P. for the respondent-State. Perused record.

3. The record indicates that, on the basis of a complaint lodged by the Deputy Zonal Manager of the petitioner, a Crime bearing CR No. 76 of 2017, dated 8th March 2017, was registered with Shivajinagar Police Station,

Pune. The said Crime was subsequently investigated by Cyber Police Station, Pune City. During the course of investigation, the Cyber Police seized total amount of Rs.6,13,30,587/-, which was in the form of cash and also from various accounts of the accused persons. After completion of investigation, Cyber Police Station, Pune submitted chargesheet before the Court of competent jurisdiction.

4. The petitioner-bank thereafter filed an application below Exh.1 in Criminal Misc. Application No. 2312 of 2017 for return of the said property, i.e. the amount seized by Cyber Police Station, Pune. The Trial Court by its impugned Order dated 27th August 2019, rejected the said application on the ground that, the Chargesheet has been filed in the matter and it cannot be held that, the amount seized from various companies was infact the amount misappropriated. That, a separate bank account has been opened by the Investigating Agency, in which the seized amount is deposited and therefore, no prejudice would be caused to the petitioner-bank, if the amount is not refunded to it at this stage.

Criminal Revision Application No. 498 of 2019 preferred by the petitioner has been turned down by the Revisional Court by its impugned Judgment and Order dated 22nd January 2020.

5. Shri Rajkumar Waghchavre, Police Inspector attached to Cyber Police Station, Pune City has filed a detailed affidavit dated 27th February

2021 in the present petition. In para No.9 of the said affidavit, he has made a categorical statement that, in the circumstances mentioned therein, the Investigating Agency bears no objection to release the said amount of Rs.6,13,30,587/- to the first informant-bank, subject to any terms and conditions as may deem fit to this Court.

6. According to this Court, undoubtedly the amount involved in the present crime is public money and the petitioner-bank is its custodial. Keeping the said amount deposited with in a separate account opened by the Investigating Agency will not serve any purpose. If the said amount is handed over to the petitioner-bank, it may utilize it for the betterment of its account holders. As noted earlier, the Investigating Agency has given no objection for release of the said amount in favour of the petitioner-bank.

7. In view thereof, impugned Judgment and Order dated 22nd January 2020 passed in Criminal Revision Application No.498 of 2019 and Order dated 27th August 2019 passed below Exh.1 in Criminal Misc. Application No. 2312 of 2017 are set-aside.

8. The Investigating Agency of CR No.76 of 2017 i.e. Cyber Police Station, Pune City is hereby directed to release the said amount of Rs.6,13,30,587/- in favour of the petitioner-bank within a period of three days from the date of receipt of the present Order. The petitioner-bank is directed to submit an Affidavit-cum-Undertaking before the Trial Court seized of the

trial of present Crime i.e. CR No.76 of 2017, originally registered with Shivajinagar Police Station, Pune and subsequently investigated by Cyber Police Station, Pune City. The said Affidavit-cum-Undertaking, apart from usual clauses will also incorporate a specific clause that, in case after conclusion of trial, if the Trial Court directs the petitioner-bank to bring back the said amount, the petitioner-bank will bring the said amount back before the Trial Court without any demour or protest.

9. Upon filing such an Affidavit-cum-Undertaking before the Trial Court, the Investigating Agency is directed to immediately release the said amount in favour of the petitioner-bank.

10. Petition is allowed in the aforesaid terms.

[A.S. GADKARI, J.]

Omkar S.
Kumbhakarn

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by Omkar S.
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