IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1929 OF 2021
WITH
INTERIM APPLICATION NO.1470 OF 2021

Shashikant Manilal Raval ...Petitioner
vs.
The State of Maharashtra and Ors. ...Respondents

Mr. Sandeep Kekane a/w. Mr. B.K. Barve, Mr. Sandeep Barve, Ms. Archana Lad, Ms. Sheetal Tanpure, Mr. Santosh Wagh, Ms. Laxmi Ingle i/b. B.K. Barve and Co., for the Petitioner.
Ms. Tejasvi Dalvi, for Respondent No. 3- Bank.
Mr. Nikhil Wable, for the complainant.
Mr. Deepak Thakre, PP a/w. Mr. J.P. Yagnik, APP for the Respondent-State.

CORAM : S. S. SHINDE &
N. J. JAMADAR, JJ.

DATE : JULY 01, 2021
(THROUGH VIDEO CONFERENCING)

P.C.:

. Heard the learned counsel for the parties.

2. The petitioner, who stood surety to Mr. Bhupendra Raval, who is arraigned in C.R.No. 117 of 2020 registered with Pant Nagar police station, for the offences punishable under sections 420, 465, 468, 471 read with 34 of Indian Penal Code, 1860, has invoked the writ jurisdiction of this Court as the bank accounts of the petitioner have been freezed by the bank at the instance of the investigating officer, in connection with the said crime.

3. The indictment against the accused in First Information Report No. 117 of 2020 is that they have deceived a number of persons by making a false representation of securing employment with the Railways and, thus, inducing the aspiring candidates to part with various sums of money, aggregating to the sum of Rs. 96 lakhs.

4. The petitioner asserts that the petitioner has no concern with the alleged crime and the only reason the accounts of the petitioner were freezed was that the petitioner stood surety to accused No. 1 Bhupendra Kevaldas Raval. In paragraph No. 4 of the petition, particulars of the fixed deposits, which are freezed, at the instance of the investigating officer, are furnished.

5. In the aforesaid context, the investigating officer was called upon to submit a report. By report dated 2nd June, 2021 the investigating officer, has informed the Court that the amounts at item number 1 to 8 of the aforesaid table were invested prior to the duration in which the alleged offences were committed by the accused. The amounts at serial number 9 to 11 were, however, invested during the said period. The investigation is underway to

ascertain as to whether the amounts covered by the deposits at serial number 9 to 11 constitute the proceeds of the crime.

6. Mr. Yagnik, learned APP, based on the report of the investigating officer, fairly submitted that first information report was lodged on 22^{nd} February, 2020 with the assertion that the aspiring candidates were lured to part with money on the promise of securing employment during the period August, 2017 to February, 2020. The investments at item number 1 to 8 were made before March, 2017.

7. In the backdrop of the aforesaid factual statement of the investigating agency the material on record, as of today, does not indicate any nexus between the amounts which are invested under the receipts at item number 1 to 8 and the alleged offence. So far as the amounts covered by the deposits at item number 9 to 11, the investigating officer has submitted that the investigation is under progress.

8. The learned counsel for the intervener, however, urged that despite the fact that the aforesaid amounts seem to be invested

before the duration, during which the crime was allegedly committed, this Court may not de-freeze the amounts at serial number 1 to 8, and the petitioner may be relegated to the remedy of approaching the jurisdictional Magistrate.

9. We have noted that the petitioner is not arraigned as an accused in the subject crime. From the report of the investigating officer, it becomes abundantly clear that the investigating agency does not claim, at this stage, that there is a nexus between the amounts covered by the deposits at serial number 1 to 8 and the crime.

10. Therefore, we are persuaded to allow the prayer of the petitioner to de-freeze the ammounts at serial number 1 to 8 of paragraph 4 of the petition subject to the outcome of the further investigation and the resultant proceeding and upon the petitioner furnishing an undertaking to the satisfaction of the jurisdictional Magistrate to bring back the amounts covered by the deposits at serial number 1 to 8, in the event it is found that the said amounts are also liable to be proceeded against in connection with the subject crime.

Ordered accordingly.

11. The petitioner and the persons in whose names the fixed deposits at serial number 1 to 8 stand shall be entitled to withdraw those amounts from the account in which the said amounts would be credited upon redemption and deal with the same as those deposit holders desire to.

12. In the event charge sheet is filed, the petitioner shall be at liberty to file an appropriate application before the competent Court for the release of the amounts covered by the deposits at serial number 9 to 11.

13. The petition thus stands allowed to the aforesaid extent.

14. The petition stands disposed of.

15. In view of the disposal of the petition, the intervention application also stands disposed of.

16. All concerned to act on an authenticated copy of this order.

(N. J. JAMADAR, J.) **(S. S. SHINDE, J.)**