

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 142 OF 2020

1. Vishwanath Haridas Shenoy
2. Narendra Haridas Shenoy ... Applicants

Versus

The State of Maharashtra ... Respondent

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Ms. Racheeta Dhuru i/b. Mr. Dilip H. Shukla, Advocate for the Applicant.

Mr. S. S. Pednekar, APP for the Respondent – State.

Ms. Sangita Vishwanath Shenoy (wife of applicant No.1), Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 11th FEBRUARY, 2021

PER COURT:

1. This is an application seeking modification of order dated 13th April, 2020 passed by the learned Sessions Judge, Thane in Bail Application No. 503 of 2020.

2. The applicants were arrested in C.R. No. 120 of 2019 registered with APMC Police Station, Navi Mumbai, for offence under Section 409 r/w Section 34 of Indian Penal Code and Sections 3 & 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short “MPID Act”). The applicants were arrested on 24th September, 2019.

2. The case of the prosecution is that the accused were

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concerned with cooperative credit society namely Shakti Multi-purpose Co-operative Society Ltd. at Vashi, Navi Mumbai. Deposits were accepted from the investors who were allegedly cheated by not returning the dividends. The applicants were allegedly directors of the society.

3. The applicants had preferred application for bail before the Sessions Court which was allowed by order dated 13th April, 2020. While allowing the application, learned Judge has observed that allegedly the amount of Rs.23,87,969/- was transferred into the account of applicant No.1 and Rs.28,78,737/- was transferred into the account of applicant No.2. It was also observed that the advocate of the applicant had submitted that applicants are ready to deposit the said amount in the Court. Bail was granted to the applicant on depositing the amount of Rs.24 Lakhs and Rs. 29 Lakhs. The applicants preferred an application before this Court seeking modification of the said order. By order dated 27th April, 2020, the applicants were permitted to pursue their application before the Sessions Court. The application before Sessions Court was rejected. The observation in the order of the Sessions Court that the applicants are ready to deposit the amount shown against them was disputed by the applicants. It is submitted that the co-accused had preferred an application for bail at the same time and they had volunteered to

deposit the amount. The co-accused were also directed to deposit the amount. It is submitted that the applicants are not in position to deposit the said amount. They continued to be custody in spite of bail being granted to them.

4. It is pertinent to note that the applicants are in custody from 24th September, 2019. Although bail was granted to them by order dated 13th April, 2020, they have continued to be remain in custody for further period of 10 months. It is submitted that the applicants have fixed deposit with the Cooperative Credit Society to the tune of Rs.8,75,378/- having its maturity value of Rs. 9,96,587/-. It is submitted that the applicants would not claim the said amount till conclusion of trial. Statement is accepted. Learned counsel for the applicant also submitted that the Flat bearing No.302, situated at 3rd Floor, B wing, Plot No. 55 & 59, Kharghar (New Panvel) stands in the name of applicant No.1 and his wife. The applicant no.1 and his wife would not create any third party till the completion of trial. The undertaking of the wife of applicant No.1 in that regard is submitted which is taken on record and marked as "X" for identification. She is present before the Court. It is submitted that the applicant No.1 would execute similar undertaking about the flat premises within one week.

5. Learned APP submitted that the applicants were directors of the company. They had volunteered to deposit the amount. It is relevant to note that the offence is registered under Section 409 r/w Section 34 of Indian Penal Code. They are in custody for substantial period of time. Bail was granted to them but they could not avail the same. The wife of applicant No.1 has tendered the undertaking in respect to flat. The applicants had also stated that fix deposit referred to above will not be released in their favour till conclusion of trial. In these circumstances, the order of the learned Sessions Judge can be modified. Hence, I pass the following order:

ORDER

- (i) Criminal Application No.142 of 2020 is allowed;
- (ii) The order dated 13th April, 2020 passed by learned Sessions Judge, Thane in Bail Application No. 503 of 2020 granting bail to the applicants in C.R. No. 120 of 2019 registered with APMC Police Station, Navi Mumbai, which is subject matter of MPID Special Case No. 15 of 2019 is modified.
- (iii) The applicants are directed to be released on bail in connection with C.R. No. 120 of 2019 registered with APMC, Navi Mumbai, Police Station, on executing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;

(iii) The applicants shall report concerned Police Station once in three month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;

(iv) The applicants shall abide by the undertaking given to this Court.

(v) The applicant No.1 shall execute similar undertaking as executed by his wife before the trial Court within one week after he is released on bail.

(vi) Application stands disposed of accordingly.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)