

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1358 OF 2021**

Amol Vishnu Kangune	]	..	Petitioner
vs.			
The State of Maharashtra & Ors.	]	..	Respondents

Mr.Rajaram Bansode, for Petitioner.
Ms.M.H. Mhatre, APP for State.

CORAM : N.R.BORKAR, J
DATE : 19TH JUNE 2021
(THROUGH V.C.)

P.C.:

1] This Petition takes an exception to the order dated 21.08.2020 passed by the learned Additional Sessions Judge, Nashik, in Criminal Miscellaneous Application No.74/2020,.

2] On the complaint of one Sandip Patil, Mumbai-Naka Police Station has registered the crime No.209/219 for the offences punishable under Sections 406, 409, 420, 467, 468, 201, 120(b) read with 34 of the Indian Penal Code, Sections 4, 5 and 6 of The Prize Chits & Money Circulation Schemes Act, 1978 and Section 3 and 4 of The Maharashtra Protection of Interests of Depositors (In Financial Establishments) Act, 1999, against Financial establishments namely Shri Mauli Multistate Credit Co-Operative Society, Sankalpsiddhi Products India Pvt. Ltd., Nashik and others.

3] It is alleged that above mentioned financial establishments have defaulted to return the deposits made by the depositors, like complainant, after maturity.

4] During the course of investigation of the aforementioned crime Toyota Fortuner bearing registration No.MH-12-RF-0054, owned by the Petitioner, came to be seized.

5] The Petitioner moved an application before the trial Court for release of the said vehicle. The trial Court rejected the said application by the order impugned.

6] I have heard learned counsel for the Petitioner and learned APP for the State.

7] Learned counsel for the Petitioner submits that the Petitioner, who is one of the depositors like the complainant in crime in question, has deposited Rs.54,30,000/- with the financial establishment against whom the crime has been registered. It is submitted that the Petitioner has also lodged the report in that respect. It is submitted that the investigating officer has cited the present Petitioner as a witness in the crime in question. It is submitted that vehicle in question was purchased by the Petitioner by raising loan and he has paid the entire loan amount. It is submitted that considering these facts, the trial court ought to have allowed application filed by the Petitioner.

8] On the other hand, learned APP has supported the order passed by the trial Court.

9] I have perused the report filed by the learned APP on record. According to the prosecution, the entries in relation to repayment of loan availed by the Petitioner for purchasing vehicle in question are doubtful.

10] However, according to the Petitioner, he has deposited an amount of Rs.54,30,000/- with the financial establishments against whom the crime in question is registered. According to him, he has lodged the report against the said financial establishments for non-return of his amount of Rs.54,30,000/-. Admittedly, the present Petitioner is cited as witness in the crime in question. Prima-facie, there is no material to show that the vehicle in question was purchased out of the deposits collected by the said financial establishments. On the contrary, the Petitioner appears to be victim of the said financial establishments. Considering these facts and circumstances, in my view, it would be appropriate to cancel the order of attachment in respect of vehicle in question. In the peculiar facts and circumstances, I am not directing the Petitioner to furnish security in terms of Section 9 of the MPID Act. In the result, following order is passed :

- 1] Writ Petition is allowed.
- 2] The vehicle in question i.e. Toyota Fortuner bearing registration No.MH-12 RF-0054 shall be returned to the Petitioner on execution of Bond in the sum of Rs.29 Lakhs.
- 3] The Petitioner shall not transfer or sell the vehicle in question during the pendency of trial.

[N.R.BORKAR,J]