

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.218 OF 2022

Ramesh Dnyaneshwar Khamkar

Applicant

versus

The State of Maharashtra

Respondent

Mr.Satyavrat Joshi with Mr.Nitesh Mohite and Mr.Sumant
Deshpande, Advocates for applicant.

Mr.N.B.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 14th October 2022

PC :

1. This is an application for modification of order dated 22nd April 2022 passed by Special Judge under MPID, Satara below Exhibits-75 and 77 in C.R No.167 of 2021 registered with Vai Police Station.

2. The applicant was arrested on 15th February 2020 in connection with aforesaid FIR registered for offences under Sections 420, 464, 465, 467, 468, 471 r/w 34 of Indian Penal Code, Section 3 of Maharashtra Protection of Interest of Depositors Act and Section 81(5)(b) of Maharashtra Co-operative Societies Act. The applicant was granted bail by Special Court under MPID Act vide order date 22nd April 2022 on condition that applicant be released on bail subject to furnishing of bank guarantee of Rs.2,00,00,000/- (Rs.Two crores only) for the period till conclusion of the trial. Furnishing of bank guarantee is condition precedent before release of accused on bail.

3. It is submitted that applicant is not in a position to furnish bank guarantee to the tune of Rs.2 crores, however, applicant and his wife are joint owners of property viz. Flat in “B3, Flat No.202, Shree Parshwa Nagar Kondhwa Budruk, Pune’ having market value of Rs.1,00,00,000/- (Rs.One crore only). It is submitted that said property was mortgaged with bank and the dues of Rs.10 lakh were cleared and no dues certificate has been issued by bank and annexed to the affidavit. Entire loan obtained from the bank has been cleared. It is submitted, on instructions, that applicant would deposit Rs.50 lakh before Trial Court before his release on bail and amount of Rs.25 lakh within a period of eight weeks from the date of his release. It is submitted that title documents regarding flat would be tendered in the Trial Court before being released on bail and execution of bail bond by way of security for grant of bail. The affidavit in that regard is affirmed and tendered in the Court. The affidavit dated 14th October 2022 sworn by wife of applicant is taken on record and marked “X” for identification.

4. It is pertinent to note that in spite of bail being granted to the applicant vide order dated 22nd April 2022, the applicant has continued to be in custody. He is in jail since 15th February 2022. Considering aforesaid circumstances, I pass following order :

ORDER

- (i) Criminal Application is allowed and disposed off;
- (ii) Condition of executing bank guarantee of Rs.2,00,00,000/- stipulated in Clause-(3) of order dated 22nd April 2022 passed by Special Judge under MPID Act, Satara below Exhibits-75 and 77 in connection with C.R No.1671 of 2021 registered with Vai Police

Station is relaxed and condition of providing bank guarantee is dispensed with;

(iii) The applicant is permitted to deposit title deeds with Index-II which should bear joint name of applicant and his wife relating to flat viz “B3, Flat No.202, Shree Parshwa Nagar Kondhwa Budruk, Pune, as security before Special Court under MPID Act;

(iv) The applicant shall not create any third party rights, title and interest or alienate in respect of flat viz “B3, Flat No.202, Shree Parshwa Nagar Kondhwa Budruk, Pune, till final disposal of Trial Court proceedings;

(v) The applicant is permitted to deposit cash of Rs.50,00,000/- in the Trial Court before execution of bail bonds;

(vi) The applicant is permitted to deposit Rs.25,00,000/- before Trial Court within eight weeks from the date of actual release from jail;

(vii) Other conditions stipulated for release of applicant by MPID Special Court shall remain intact qua applicant;

(viii) Deposit of documents and cash is without prejudice to the defense of applicant before Trial Court.

(PRAKASH D. NAIK, J.)

MST