

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

963 CRIMINAL WRIT PETITION NO.1645 OF 2022

RAJENDRA BABULAL JAIN  
VERSUS  
THE STATE OF MAHARASHTRA

...  
Advocate for Petitioner : Mr Karpe Rahul R.  
APP for Respondent : Mr K.S. Patil

...  
CORAM : S. G. CHAPALGAONKAR, J.  
Dated: August 22, 2023

...

**PER COURT :-**

1. The learned advocate appearing for the petitioner would submit that the application that was tendered seeking discharge below Exhibit-124 in Special (M.P.I.D.) Case No.1 of 2018 was not happily worded. Many important grounds those were available to the petitioner for discharge particularly non-applicability of section 3 of the MPID Act were missed in the application. He would canvass that the applicant had resigned in March 2015 i.e. before the period of commission of offence indicated in the FIR. He would further submit that the Society was classified as class-I society during the period from 1.4.2014 to 31.3.2015 that shows good working of the society. He would further urge that registered co-operative society would not fall within the meaning of the Financial Institution to be dealt with under the provisions of the M.P.I.D. Act. He urge that the applicant may be permitted to file a comprehensive application before the Sessions Court thereby including the aforesaid grounds and any other legal issues those are available under law.

2. Apparently, the application that was tendered seeking discharge was in respect of charge u/s 3 of the MPID Act only. The

aaa/-

grounds those are sought to be advanced in this writ petition were not made part and parcel of the application for discharge before the Special Court. In that view of the matter, learned advocate appearing for the petitioner seeks permission to file a fresh application for discharge before the learned Special Judge at Jalgaon thereby incorporating all possible grounds and prays for direction to consider such application without influenced by the order passed below exhibit 124.

3. Learned APP opposed the petition on the ground that there was no reason for the petitioner to withhold all available grounds in his application. Repeated exercise cannot be permitted.

4. Having considered the submissions advanced, it is apparent that it is the right of the accused to seek discharge if he has good grounds in support of such contentions. True that the applicant has failed to plead all grounds those were available to him in the application. However, he cannot be precluded from raising all such grounds by filing a fresh application and repeat his prayer for discharge on additional grounds.

5. In that view of the matter, following order is passed.

#### **O R D E R**

- i. Criminal writ petition is partly allowed.
- ii. Impugned order dated 27.9.2022 passed by the Special (MPID) Judge, Jalgaon below Exh.124 in Special (MPID) case No.1 of 2018 is quashed and set aside.
- iii. The petitioner is at liberty to file a comprehensive application before the Sessions Court, Jalgaon seeking discharge in Special (M.P.I.D.) Case No. 1 of 2018.

aaa/-

- iv. In case, such application is filed within a period of three weeks from the date of this order, the learned Sessions Court shall consider and decide the said application afresh, on its own merits.
- v. Writ petition is disposed off.

( S. G. CHAPALGAONKAR, J. )

...