

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.757 OF 2017***

Ratnakala Ashok Katkam

...Petitioner

Versus

State of Maharashtra and Ors.

...Respondents

Mr. Ritesh Thobde a/w Mr. Changdev Shivgade, for the Petitioner.

Ms. P. P. Shinde, A.P.P for the Respondents – State.

Mr. Sadashiv M. Padadune, SDO, Solapur, is present.

***CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 27th JULY 2023

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, preferred under Article 226 of the Constitution of India, the petitioner seeks the following substantive reliefs:-

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- a) This Hon’ble Court by invoking writ jurisdiction under Article 226 of the Constitution of India r.w. its inherent powers U/s. 482 of Cr.P.C may issue appropriate writ, order and/or direction and quash and set aside the impugned Order of Attachment dated 26.04.2016 passed

- by the Respondent No. 2;
- b) This Hon'ble Court be pleased to further direct the Respondent No. 5 to strike out the entries taken on the 7/12 extracts of the properties belonging to the Petitioner and make the properties free from any attachment.”

3. Learned APP raises a preliminary objection. She submits that the petitioner has approached this Court directly, challenging the order of Attachment dated 26th April 2016 passed by the respondent No.2. She submits that the petitioner ought to have challenged the said order by filing an appropriate application and that the learned Judge could have decided the said application. She states that the petitioner be relegated to the trial Court for seeking the reliefs as sought for, in this petition. She further on instructions states that if an application is filed by the petitioner, the respondent – State will not oppose the application, on the ground of delay in filing the said application. Statement accepted.

4. There is substance in what is stated by the learned APP. It is not in dispute that the petitioner has approached this Court directly challenging the order of Attachment dated 26th April 2016. Hence, it

would be appropriate to relegate the petitioner before the Sessions Court, seized of the said case i.e MPID case.

5. If an application is filed by the petitioner, the learned Judge to decide the said application, on its own merits, as expeditiously as possible and in any event within eight weeks from the date of filing of the application.

6. The statement made by the learned APP on instructions that they will not oppose the said application on the ground of delay, is accepted.

7. Petition is accordingly disposed of on the aforesaid terms.

8. We make it clear, that we have not gone into the merits of the petition and all such grounds, as raised in this petition are kept open.

GAURI GODSE, J.

REVATI MOHITE DERE, J.