

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 29 OF 2023

Hiten @ Hitendra Virabhai Patel ... Applicant

Versus

The State of Maharashtra ... Respondent

.....

Mr. Shailesh Chavan alongwith Mr. Jitendra Sawant and Mr. Sangram Kate
for the Applicant.

Mr. V.B. Konde Deshmukh, APP for the State.

.....

CORAM : N.R. BORKAR, J.

DATED : 10 APRIL 2023

P.C. :-

. The Sessions Court by order dated 25 July 2022, below exhibit 236 in Spl. (MPID) case No. 317 of 2020, had released the applicant on regular bail, who is an accused in Crime No.26 of 2020 registered at Shivaji Nagar Police Station for the offences punishable under Sections 406, 408, 409, 420, 468, 471, 109, 120-B, 465, 467, 474 r/w. 34 of Indian Penal Code and Sections 3, 4, 5 of the Maharashtra Protection of Interest of Depositors Act. The operative order read thus :

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ORDER

1] *Application Exh.236 is hereby allowed as under :-*

*a] Applicant Hiten @ Hitendra Virabhai Patel be
released on bail on depositing Rs.2,20,00,000/- (Rs.*

Two Crores Twenty Lakh Only) in Court and on furnishing P.R. Bond of Rs.25,000/- with one or two sureties in like amount on following conditions :-

b] The applicant/accused shall deposit the remaining amount Rs.2,27,29,960/- (Rs. Two Crores Twenty Seven Lakhs Twenty Nine Thousand Nine Hundred Sixty only) within six months from the date of release from jail.

c] The applicant/accused shall furnish undertaking on affidavit that he will deposit the remaining amount as per above directions.

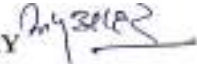
d] The applicant shall attend the Court on each and every date of hearing till final disposal of the case.

e] He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case.

f] He shall not pressurize the prosecution witnesses.

g] He shall not leave the India without permission of the Court.”

2. The learned counsel for the applicant has tendered on record, the undertaking of the wife of the applicant dated 06 April 2023. For ease of reference, the said undertaking is scanned and reproduced hereunder :


IN THE HIGH COURT OF JUDICATURE AT BOMBAY 

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 29 OF 2023

DISTRICT:- PUNE

Mr. Hiten @ Hitendra Patel

...Applicant

Versus

State of Maharashtra
[At instance of Shivajinagar,
Police Station, Pune.

... Respondent

UNDERTAKING OF BEHALF OF WIFE OF APPLICANT- VRUNDAHITEN @ HITENDRA PATEL

I, Shri. Vrunda Hiten @ Hitendra Patel, Age- 45 yrs, Indian
Inhabitant, R/at- D- 303, Marvel Fria Society, Wagholi, Pune- 411014, wife
of the Applicant abovenamed do hereby have to state as under:-

1. I say that my husband Hiten @ Hitendra Patel is arraigned as an
accused in in C.R. no. 26/2020 lodged at the instance of
Chartered Accountant Yogesh Lakde for offence U/S. 406, 408,
409, 420, 468, 471, 109, 120 B, 465, 467, 468, 471, 34 of IPC
and Section 3, 4, 5 of MPID Act registered with Shivajinagar
Police Station.
2. I state that my husband is arrested on 20/06/2021 in connection
with present crime and is presently lodged in Yerawada Central
Jail. I say that the Applicant has filed Bail Application before
Addl. Session Judge, Pune. The Ld. Session Judge, Pune on
25/07/2022, was pleased to allow the Bail Application subject to 

condition of deposit of Rs. 2,20,00,000/- prior to release and Rs. 2,27,29,960/- after release within 6 months. However, the said condition of deposit of Rs. 2,20,00,000/- before release was not complied with, due to financial condition and also there is no male member in the family.

3. I say that despite the Order dated 25/03/2022, since the Order is not complied, my husband is still behind bar. After from my husband, there is no any male member in the family. I am having three kids and mother-in-law who sonar citizen and due to which it is difficult for me to arrange such huge amount.
4. I say that thereafter the matter was listed on board on 24/03/2023 and time was sought by the Advocate for the Applicant to filed fresh undertaking of wife of the Applicant and non-compliance of the said order dated 24/03/2023, I am filing the present undertaking/affidavit.
5. I say that I undertake to deposit the amount and non-compliance of the same and after great pain could arrange amount of Rs. 50,00,000/- from relatives and family friends. I have already deposited an amount Rs. 50,00,000/- with the Learned Session Judge, Pune on 05/04/2023 and the same copy of the D.D. is already submitted and there is acknowledge to that effect. Hereto annexed and marked as 'Exhibit A' is the copy of the

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Application dated 05/04/2023 with copy of the D.D. of Rs. 50 lacs.

6. I state that without prejudice to my rights and contentions and without admitting the allegations levelled by the prosecution against my husband, I am filing present undertaking before this Hon'ble court on behalf of my husband for depositing the alleged amount with this court subject to the outcome of the trial in 6 installments as under:-

INSTALLMENT	AMOUNT	DUE DATE	BALANCE
1 st	50 Lakhs	Before release [Already Deposited in Sessions Court]	3,97,29,960/-
2 nd	50 Lakhs	Deposited on or before 31 st Oct, 2023	1,17,29,960/-
3 rd	50 Lakhs	Deposited on or before 30 th March, 2024	2,97,29,960/-
4 th	50 Lakhs	Deposited on or before 30 th June, 2024.	2,47,29,960/-
5 th	50 Lakhs	Deposited on or before 25 th December, 2024.	1,97,29,960/-
6 th	50 Lakhs	Deposited on or	1,47,29,960/-

		before 30 th March, 2025.	
7 th	50 Lakhs	Deposited on or before 30 th June, 2025.	97,29,960/-
8 th	50 Lakhs	Deposited on or before 30 th September, 2025.	47,29,960/-
9 th	47,29,960/-	Deposited on or before 30 th December, 2025.	Nil
TOTAL Amount	4,47, 29,960/-	Four crore forty-seven lakhs twenty nine thousand and nine hundred and sixty only.	

7. I undertake to pay the total amount of Rs. 4,47, 29,960/- (Rupees Four Crore forty-seven lacs, twenty-nine thousand and Nine hundred and Sixty only) as per above schedule in 9 installments. I say that I shall make all the endeavors to comply with the present undertaking without causing any intentional delay. I say that I have already deposited 1st installment of Rs. 50 Lakhs with the Learned Session Judge, Pune.

8. I say that I and my mother-in-law are the only persons who are arranging funds from relatives and family friends. I say that we are ready to deposit the entire amount but only because of the

financial difficulty and the Applicant being in Jail since June, 2020, it will be difficult to arrange such huge amount. Even after release, time will be required and hence the time be granted as mentioned in the schedule for complying with the undertaking.

9. I state that even though applicant have good case on merits, amount is despoited only for the sake of consideration of my bail and hence for showing bonafide, this present undertaking is filed on behalf of her husband for depositing the said amount without prejudice with the Learned Session Judge, Pune.

10. I say that the said undertaking is given on behalf of her husband without prejudice to my rights and contentions and ready to comply with the said undertaking filed on my behalf of applicant-husband.

Solemnly Affirmed at Mumbai |

This 6th day of April, 2023 |

Identified by me

[Signature]
Advocate

[Signature]
Licence No. 284936800490

Seen & Returned

[Signature] Page 5 of 5

[Signature]
[Vrunda H. Patel]

Deponent

by *[Signature]* Heter
Before me
who is *[Signature]* I know
by *[Signature]* Patel
whom I personally know
This 6th day of April 2023
High Court, Appellate Side
Bombay

[Signature]
Additional Judicial Officer
High Court, Appellate Side

3. In view of the above undertaking and as the applicant is in jail for more than 1 ½ years, I am inclined to modify the order passed by the Sessions Court. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The order of the Sessions Court (Special Court) dated 25 July 2022 to the extent of directing the applicant to deposit Rs.2,20,00,000/- before release and Rs.2,27,29,960/- within six months from the date of his release and directing the applicant to file undertaking to that effect, is set aside.
- (iii) The prosecution is at liberty to file application for cancellation of bail if the undertaking filed before this Court is breached.
- (iv) The liquidator – Shivajirao Bhosale Co-operative Bank is permitted to withdraw the amount of Rs.50 Lakhs deposited by the present applicant before the Special Court.
- (v) The amount as per undertaking shall be deposited with the liquidator of Shivajirao Bhosale Co-operative Bank.
- (vi) Application is disposed of.

(N.R. BORKAR, J.)