

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.2302 OF 2022

Fintech Valley India

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Vivek Chauhan for the petitioner.

Mr. A.R. Patil, APP for the respondent/State.

Ms. Suvarna Shide, PI, Cyber Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : MARCH 24, 2023

PC.:

1. The writ petition is directed against order dated 14th September 2020, passed in Criminal Revision Application No.379 of 2020, thereby imposing condition on the petitioner to furnish bank guarantee in the amount of Rs.7,20,000/- and Rs.5,70,000/- before de-freezing the account.

2. According to the petitioner, he is having an account in ICICI Bank at Grant Market Taluka and District Jalandhar, Punjab bearing account Nos.0612-5500-354 and 06120-5500-353. The said accounts were freezed in relation to a crime by the investigating officer. On inquiry, it was revealed that the accused persons defrauded one Laxmi Kokru and transferred the amount of Rs.7,20,000/- and Rs.5,70,000/- in the account of the applicant.

3. According to the applicant, he is having business of trading. The applicant, therefore, filed an application before the Trial Court for defreezing the accounts. Learned APP granted no objection to defreeze the accounts, subject to imposition of some conditions; however, the learned Magistrate rejected the application.

4. The applicant, therefore, filed revision application before the Sessions Judge. The learned Sessions Judge by impugned order allowed the revision subject to imposing condition that the applicant shall furnish bank guarantee in the amount of Rs.5,70,000/- and Rs.7,20,000/- of any nationalized bank. Imposition of said condition is subject matter of the present writ petition.

5. On perusal of the record, it appears that the applicant is having business of trading in shares. The learned APP had issued no objection subject to imposition of condition. Considering the fact that the amount of Rs.7,20,000/- and Rs.5,70,000/- was immediately transferred from the account of the applicant to different accounts, the applicant cannot be saddled with condition of furnishing bank guarantee. Considering the facts of the case, clause 3 of order dated 14th September 2020 can be substituted by following order:

a) Instead of furnishing bank guarantee, the applicant shall file undertaking before the Trial Court that in case after trial any liability is imposed on the applicant, he shall comply with the order of the Magistrate.

b) Subject to filing of such undertaking, part of clause 3 of

order dated 14th September 2020 passed by the learned Additional Sessions Judge, Greater Mumbai in Criminal Revision Application No.379 of 2020 is quashed and set aside.

6. The writ petition is disposed of in above terms. No costs.

(AMIT BORKAR, J.)