IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4954 OF 2019

Public Health Foundation of India through
Amit Chaturvedi ... Petitioner
versus
The State of Maharashtra and others ... Respondents

WITH
CRIMINAL WRIT PETITION NO.2630 OF 2019

Public Health Foundation of India ... Petitioner
versus
The State of Maharashtra and another ... Respondents

Mr.Aabad Ponda, Senior Advocate, with Ms.Deepa Shetty, Pooja Kothari, Ms.Azraa Millwala, Ms.Abhyarthana Singh i/by M/s.Rashmikant and Partners, Advocate for Petitioner.

Mr.Kafil A. Kahn with Ms.Sana Khan, Mr.Shakir Qureshi i/by KSK Legal, Advocate for Respondent no.3.

Mrs.Ameeta Kuttikrishnan, Special P.P with Mr.Danish Patel, for Respondent no.2.

Mrs.Anamika Malhotra, APP, for Respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 26th July 2023

P.C.:-

1. In Criminal Writ Petition No. 4954 of 2019, the petitioner is seeking cancellation and withdrawal of condition of security imposed by the learned Special Judge (CBI), Greater Bombay vide its order dated 6th August 2014 passed in Misc. Application No. 152 of 2014 and subsequent order dated 5th December 2017 passed in Misc. Application No. 131 of 2015 rejecting the

said application for cancellation of condition of occurring security imposed vide order dated 6th August 2014.

2. In Criminal Writ Petition No. 2630 of 2019, the petitioner challenges the order dated 20th April 2019 passed by learned Special (CBI) for Greater Bombay in Misc. Application No. 784 of 2018.

3. Case of the prosecution is that, one Vimal Jadhavji Maluka @ Vimal Barot Showman Group, Mumbai in connivance with Shri. Pritam Vidyadhar Nagarkar, Branch Manager, Malabar Hill Branch, Mumbai and unknown private persons of organizations/corporate, Mumbai Metropolitan Region Development Authority, Maharashtra Tourism Development Corporation Ltd, Mumbai APMC and others committed fraud of Rs.220 crores of Dena Bank by falsely representing himself as the representative of the said organization/corporate to Dena Bank. On the one hand, he presented himself to the organization/corporate as representative of Dena Bank and on the other hand he represented that, he is financial advisor of these organizations/corporates. He facilitated Dena Bank to mobilize term deposits to the tune of Rs.604.32 crores from these organizations. On the security of these term deposits and on the basis of loan applications purportedly signed by these organizations as well as on the basis of false and forged documents in the name of these organizations, Shri. Vimal Barot, in criminal conspiracy with Shri. Pritam Vidyadhar Nagarkar, Branch Manager, Dena Bank, Malabar Hill, Mumbai availed loan of Rs.223.25

crores and also diverted funds from the current account of Public Health Foundation of India and thereafter, siphoned off the same causing wrongful loss of Rs.245 crore to the Dena Bank. After investigation, charge-sheet was filed before the Special Judge (CBI) on 24th June 2015 by keeping open further investigation. The account of petitioner was frozen under Section 102 of Cr.P.C. for the purpose of investigation and trace out the accused, who siphoned off Rs.245 crores by manipulating various accounts. The investigation reveals money trail to the account of public health foundation of India and other persons.

4. The petitioner preferred Misc. Application No.152 of 2014 before the learned Special Judge for de-freezing the bank account. The learned Special Judge vide order dated 6th August 2014 allowed the application and directed that, all the accounts freezed by CBI, which are in the name of petitioner/Public Health Foundation of India as shown in paragraph 2 of the application be de-freezed. The petitioner was granted liberty to operate these accounts with condition that, he may withdraw the amount of exceeding to the amount in these accounts. The petitioner was further directed to furnish security to the extent of the amount of Rs.26 crores with condition that, it will re-deposit the amount in the account in the event, if it is found that, the amount was involved in the crime. The petitioner was directed not to withdraw the amount of Rs.5,3,32,877/- from the account No.5861115013 with HDFC Bank, New Delhi and amount of

Rs.5,3,57,535/- from the account No.030992008 with City Bank New Delhi till further orders. The petitioner was also directed to submit the statement of withdrawal from these accounts to the CBI and granted liberty to invest amounts, which are not to be withdrawal in FDR in order to earn interest on the amount.

5. The petitioner preferred Misc. Application No. 131 of 2015 before the trial Court to modify the order dated 6th August 2014 to the extend of cancelling the requirement of deposit of security as surety by the petitioner as more particularly contained in paragraph 4 of the operative part of order dated 6th August 2014. It was further prayed that, the surety of Rs.27 crores deposited by petitioner in the trial Court, in the form of five fixed deposit receipts bearing numbers 46960, 46961, 46973 and 46974 or such other fixed deposit receipts that may be deposited by the petitioner pursuant to renewal/renumbering of the fixed deposits by HUDCO. This application was preferred on 10th September 2015.

6. The CBI filed its reply to the said application and opposed the modification and prayed that the order dated 6th August 2014 may be continued.

7. Learned Special Judge vide order dated 5th December 2017 rejected the said application on the ground that the Court had passed order to defreeze the account of petitioner by order dated 6th August 2014 with condition to furnish security. At that point of time, the investigation was at

initial stage. After completing investigation, charge-sheet is filed on 24th June 2015 and supplementary statement is filed on 11th August 2015. On perusal of annexure-I with charge-sheet it appears that the amount of Rs.35,65,30,827/- has gone into the genuine account of PHFI at City Bank and HDFC, New Delhi out of the defrauded amount of Dena Bank, who is the complainant in the present case and alleged that the complainant suffered wrongful loss to the tune of Rs.244.81 crores.

8. Learned Advocate for the petitioner submitted that, the condition of security stipulated in order dated 6th August 2014 is arbitrary. The petitioner is initiative launched in 2006 as response to emerging public health challenges, with the aim of strengthening public health capacity in the country. The petitioner adopts broad, integrative, multi-disciplinary and multi-sectoral approach to public health, tailoring its efforts to Indian conditions and engages with the many dimensions of public health that encompass promotive, preventive, therapeutic services and rehabilitation. In February, 2014 Mr.Pritam Nagarkar, Senior Manager, Dena Bank approached Mr. Nirmal Pathak, Finance Manager of the petitioner and solicited investments in the Malabar Hill branch. The petitioner was induced by offering higher rate of interest on the fixed deposits and as a result, the petitioner had invested money in the bank by way of fixed deposits. The petitioner submitted the necessary compliance documents and deposited sum of Rs.26 crores with Dena Bank by way of the RTGS process.

On 5th June 2014, the petitioner invested the amount of Rs.10 crores by way two fixed deposits of Rs.5 crores each with the Punjab and Sind Bank (for short "PSB"), Khar Branch, Mumbai. Thereafter, these deposits were remitted viz RTGS from the petitioner's operative accounts at Delhi in City Bank and HDFC Bank against which the petitioner received fixed deposit receipts. The petitioner was informed that, scam had been committed in relation to fixed deposits to South Indian Educational Society (for short "SIES") and amount of Rs. 14,50,00,000/- was credited to SIES's account from petitioner's account with Punjab National Bank. Petitioner was further informed that, the account of SIES Trust with Punjab National Bank had received fund of Rs.14,50,00,000/- from Public Health Foundation of India on 21st May 2014. The Officer of Petitioner made enquiry and requested for balance confirmation. Letter dated 11th July 2014 was written to Dena Bank to close all the fixed deposits opened by the petitioner with the bank and transfer money to the accounts of petitioner. However, petitioner received letter dated 16th July 2014 from Dena Bank stating that, the deposits are not matching with the records. The petitioner also requested Punjab and Sindh Bank, Khar Road Branch, Mumbai to close its fixed deposit accounts and return its invested amounts. Accordingly, the said bank closed the fixed deposits and refunded the money to the petitioner, the proceeds of which were received by the petitioner through RTGS viz. Credit of Rs.5,03,32,877/- into the petitioner's HDFC Bank account on 3rd

July 2014 and Rs.5,03,57,535/- into the City Bank account of the petitioner on 4th July 2014. The petitioner then received intimation from Respondent No.2 about freezing of petitioner's account with City Bank and HDFC Bank. The petitioner is not the accused in the investigation conducted by CBI. The amount frozen belongs to the petitioner. The petitioner cannot be compelled to furnish security as directed by the trial Court. The petitioners are willing to give PR bond for de-freezing the account directing the petitioner to give security in respect to that amount would be arbitrary. The petitioner had lodged complaint with Superintendent of Police for bank security and fraud investigation against Dena Bank, Malabar Hill Branch. However, cognizance of the complaint was not taken. Hence, the conditions stipulated in order dated 6th August 2014 about furnishing security may be relaxed and the security furnished by the petitioner may be returned to the petitioner.

9. Respondent No.2/CBI has opposed this application by filing reply. The Respondent No.3 has also filed affidavit-in-reply opposing the relief of modification sought by the petitioner.

10. Learned Advocate for Respondent No.2 CBI submitted that, around 35.7 crores has gone into the genuine account of Public Health Foundation of India at City Bank and HDFC, Delhi out of the defrauded amount at Dena Bank. Accordingly, the aforesaid accounts were frozen by the Investigating Agency. Though, it is the fact that Rs.26 crores were invested by the

petitioner with Dena Bank Malabar Hill Branch, Mumbai the trail of funds show that, around Rs.35.7 crores has gone into the genuine account of Public Health Foundation of India (petitioner) at City Bank and HDFC Bank, Delhi out of defrauded amount of Dena Bank.

11. Learned Advocate for Respondent No.3 submitted that, modification of order dated 6th August 2014 is not warranted. The money trail was revealed that the amount of Rs.35,65,30,827/- was diverted from various accounts by the corporate organizations and same was transferred to the account of petitioner in their genuine accounts. The investigation revealed how this amount was finally transferred in the account of petitioner. The investigation found that, during the trail amount of Rs.128,98,97,379/- lying in various accounts. The details of this amount are mentioned in the supplementary charge-sheet. The prosecution has also mentioned the details of un-traced account transaction and the total amount misappropriated or siphoned by the accused i.e. Rs.241,81,93,478/-. Hence, petitioner seeking modification of order dated 6th August 2014 passed by learned Special Judge may be rejected.

12. It is true that, order dated 6th August 204 passed by the learned Special Judge de-freezing the account was not challenged by CBI or Respondent No.3. However, the petitioner had preferred an application for modification of the said order which has been rejected by the trial Court. It is pertinent to note that, Misc. Application No. 152 of 2014 was allowed at

the stage of investigation. The modification sought by the petitioner cannot be granted. The learned Special Judge has rightly rejected the said application pursuant to order dated 6th August 2014. Charge-sheet was filed on 24th June 2015 and thereafter supplement charge-sheet was filed on 11th August 2016. The charge-sheet indicate that amount of Rs.35,65,30,827/- has gone into the account of petitioner at City Bank and HDFC Bank, New Delhi out of the defrauded amount of Dena Bank. After investigation of the case, initial charge-sheet was filed for offence under Section 120(B) read with 420, 409, 471, 467, 468 of Indian Penal Code and Section 13(2) read with 13(1)(c)(d) of Prevention of Corruption Act. Thereafter, supplementary charge-sheet was filed against the other accused. It is apparent that, money trail to the account of petitioner and other persons was traced. The charge-sheet indicate that on 25th March 2014 from the account of MTDC at Dena Bank, funds to the tune of Rs. 1 crores went through RTGS to the account of Naarad Media Pvt. Ltd. with Punjab National Bank, Goregaon Branch and on the same day from Naarad Media Pvt. Ltd. account, Rs.50,91,848/- was transferred to the account of Petitioner with Punjab National Bank, Worli Branch. On 25th March 2014, the demand draft was issued in the name of petitioner for an amount of Rs. 50,91,848/-. This amount has gone into the account of petitioner at City Bank, Delhi. On 28th March 2014, from the account of MAPMC at Dena Bank, fund to the tune of Rs.10.50 crore was transferred to the account of

Hero Moto Corps at Dena Bank. On 15th April 2014 from Hero Moto corps at Dena Bank, the fund of Rs. 5.60 crores went through RTGS to Jyoti Enterprises at Dhanlaxmi Bank, Goregaon. On 15th April 2014 from the account of Jyoti Enterprises at Dhanlaxmi Bank, 6 demand drafts were issued in the name of petitioner amounting Rs. 5,49,27,818/-. This amount has directly gone to the genuine account of petitioner at HDFC Bank, Delhi. On 28th March 2014 from the account of MTDC at Dena Bank, funds to the tune of Rs.3.27 crores went through RTGS to the account of Ramtech Industries Pvt. Ltd at Punjab National Bank Santacruz and on 22nd April 2014 from Ramtech Industries Pvt Ltd at Punjab National Bank, Santacruz, Rs.1.40 Crores went to the account of Jyoti Enterprises at Dhanlaxmi Bank. It may be mentioned here that on 28th March 2014, from the account of MTDC at Dena Bank, another amount of Rs.6.00 Crores went to the account of Tulsidas Gopalji Charitable Trust at Punjab National Bank, Andheri and on 22.04.2014 from the account of Tulsidas Gopalji Charitable Trust, funds to the tune of Rs.4.30 Crores went to the account of Jyoti Enterprises at Dhanlaxmi Bank. On 22.04.2014, from the account of Jyoti Enterprises, 6 DD's were issued in the name of PHFI amounting Rs.5,41,13,699/-. This amount has directly gone to the genuine account of PHFI CITI Bank Delhi. On 28.03.2014 from the account of MTDC at Dena Bank, funds to the tune of Rs.3.27 Crores went through RTGS to the account of Ramtech Industries Pvt Ltd., at Punjab National Bank, Santacruz and on 17.04.2014 from the account of Ramtech Industries Pvt Ltd. at Punjab National Bank, Santacruz, Rs. 1,02,60,000/- went to the account of PHFI at Punjab National Bank, Worli branch. On 17.04.2014 from the account of PHFI at Punjab National Bank, Worli branch, DD was issued in the name of PHFI amounting Rs.1,02,51,678/-. This amount has directly gone to the genuine account of PHFI at CITY Bank Delhi. On 16.04.2014 from the account of MTDC at Dena Bank, funds to the tune of Rs.1.50 Crores, Rs.8.00 lacs, Rs.35.00 lacs and Rs.19.00 lacs went to the account of Jyoti Enterprises in Dhanlaxmi Bank. On the same day from the account of MAPMC Rs.26.00 lacs and from Hero Moto Corps, Rs.2.90 Crores and from Mahatma Phule Backward Class Development Corporation Ltd., Rs.7.00 lacs went to the account of Jyoti Enterprises at Dhanlaxmi Bank. On 16.04.2014 from Jyoti Enterprises, 6 DD's were issued in the name of PHFI amounting Rs.5,49,28,065/-. This amount has directly gone to the genuine account of PHFI at CITI Bank Delhi. On 26.04.2014 from the account of PHFI at Dena Bank, funds to the tune of Rs.1,02,51,000/- went through RTGS to the account of PHFI at Punjab National Bank Worli Branch. Against this amount, 2 DD's were issued in the name of PHFI from PHFI Punjab National Bank, Worli Branch on 26.04.2014 amounting Rs.82,01,344/- and Rs.20,50,336/-. The amount of Rs.82,01,344/- then went to the genuine account of PHFI at HDFC Bank Delhi and Rs.20,50,336/- also went in the genuine account of PHFI at CITI Bank Delhi. On 28.05.2014 from the account of MMRDA at Dena Bank, funds to the tune of Rs.4.54 Crores and Rs.3.72 Crores went through RTGS to the account of PHFI at Bank of Maharashtra, Malad Branch. On 29.05.2014 from the account of PHFI at Bank of Maharashtra, funds to the tune of Rs.6.63 Crores went to the account of PHFI at Punjab National Bank, Worli Branch. Against this amount on 29.05.2014, PHFI Punjab National Bank issued 2 DD's of Rs.6,61,57,008/- and Rs.1,18,619/-. The amount of Rs.6,61,57,008/- went to the genuine account of PHFI at HDFC Bank Delhi and Rs.1,18,619/- also went in PHFI at HDFC Bank Delhi. On 01.07.2014 from the account of MTDC at Dena Bank, funds to the tune of Rs.6.70 Crores was transferred to the account of PHFI at Dena Bank and on the same day from PHFI, Dena Bank account, the fund of Rs.6.50 Crores went through RTGS to the account of PHFI in Punjab & Sind Bank Khar branch. On 02.07.2014 from the account of PHFI at Punjab & Sind Bank, fund of Rs.5,03,32,877/- went to the genuine account of PHFI at HDFC Bank Delhi. On 03.07.2014 from the account of MMRDA at Dena Bank, funds to the tune of Rs.8.00 Crores was transferred to the account of PHFI at Dena Bank. On 03.07.2014 from the account of PHFI at Dena Bank, funds to the tune of Rs.5.00 Crores went to the account of PHFI at Punjab & Sind Bank Khar. Against this amount, PHFI Punjab & Sind Bank sent Rs.5,03,57,535/- to the genuine account of PHFI at CITI Bank Delhi.

13. The learned Special Judge has rightly imposed the conditions while defrauding the amount and in the light of factual matrix as stated above no

case is made out for modifying the said order.

14. In Criminal Writ Petition No. 2630 of 2019, he petitioner is aggrieved by order dated 20th April 2019 passed by learned Special Judge (CBI) in Misc. Application No. 784 of 2018.

15. Misc. Application No.784 of 2018 preferred by Respondent No.3/Dena Bank for releasing the amount of Rs.10,06,90,412/- lying in HDFC Bank, New Delhi and CITI Bank, New Delhi in their favour along with interest accrued thereon. Application Exhibit-9 was preferred by the petitioner for similar relief. Learned Special Judge allowed the Misc. Application No. 784 of 2018 and rejected application exhibit-9 in Misc. Application No. 784 of 2018. The amount of Rs. 5,03,32,877/- lying in the account bearing No.05861115013 with HDFC Bank, New Delhi and amount of Rs.5,03,57,535/- lying in the account bearing No.030992008 with CITY Bank, New Delhi. Total amount of Rs.10,06,90,412 was defreezed and it was directed to be released Dena Bank, Malabar Hill Branch, Mumbai along with accrued interest thereon. Dena Bank was directed to execute indemnity bond and an undertaking that they will deposit the amount as and when directed by the Court.

16. Learned Advocate for the petitioner submitted that, the petitioner had invested Rs.26 crores with Dena Bank. At the time of seizure, the amount in question was lying into the bank account of the petitioner while dealing with the application for return of property or defrauding of bank

account. The principle to be considered by the Court is to return the amount/property back to the person, identity from whom which has been seized. The petitioner has not committed crime. The petitioner is the genuine investor in Dena Bank. The petitioner was induced to invest the money in offering attractive returns. The amount belongs to the petitioner. The petitioner cannot be deprived of said amount. The offences were committed by the officer of Dena Bank and the other accused. Section 457 of Cr.P.C. mandate that, the Magistrate shall deliver the property seized by the police pending trial to the person entitled to the possession thereof. The funds attached belong to the petitioner and were deposited in the accounts belongs to petitioner in the City Bank and HDFC Bank respectively. The possession and dominion of funds were vested in the petitioner. Any order disturbing the possession of the funds has to be based on strong ground. The trial Court has not appreciated this aspects without assigning cogent reason. The application preferred by Respondent No.3 was allowed. The other grounds discloses in the impugned order handed over the possession/ custody of the funds to Dena Bank from the accounts of petitioner is that, Dena Bank was the main victim of the fraud and it is better person to hold custody of the amount. The petitioner has not connection with the crime. Merely on the ground that complainant/Dena Bank is the better victim, cannot be a reason for releasing fund in their favour. Order is contrary to provisions of law. The petitioner had deposited Rs. 26 crores with Dena

Bank and received single rupee back from Dena Bank. Assuming that, the amount of Rs.10,06,90,412/- is stolen property of Dena Bank. Once it is in the accounts of petitioner, the possession of the same cannot be handed over back to Dena Bank as the petitioner is legally entitled to the possession of that amount and had now ceased to be stolen property. Thus, the petitioner is rightful owner of this property. Amount of Rs. 10,06,90,412/- was received back from PSB in line with the deposit of Rs.10,00,00,000/- made by petitioner in PSB. The amount was invested by donors for genuine cause. The petitioner cannot be deprived the said amount.

17. Learned Advocate for Petitioner has relied upon the following decisions:-

(i) M. Savudi Karuppanan Ambalam Vs. Guruswami Pillai [(1933) 56 Mad 654];

(ii) Sattar Ali Vs. Afzal Mohomed [(1926) 54 Cal 283];

(iii) Laxmichand Rajmal Vs. Gopikishan Balmukund [(1936) 38 BOMLR 117];

(iv) Purshottam Das Banarsidas Vs. State [(1951) SCC OnLine ALL 221];

(v) Rani Sona Bahuji Vs. Rao Sobhag Singh [(1936) SCC OnLine MP 140];

(vi) K. Srinivasamoorthi Vs. Narasimhalu Naidu [(1927) SCC OnLine Mad 86];

(vii) Anup R. Kantak Vs. State through the Panaji Police Station and Anr. [(1999) SCC OnLine Bom 402];

(viii) Narendra Dejoo Shetty Vs. Saumyalata Shyama Shetty [(2020) SCC OnLine Bom 287];

(ix) Nevada Properties Private Ltd. Vs. State of Maharashtra

[(2019) 20 SCC 119];

(x) Lipkin Gorman Vs. Karpnale Ltd. [(1991) 3 WLR 10];

(xi) VLS Finance Ltd. Vs. BMS IT Institute Private Limited [(2016) SCC OnLine Del 607];

(xii) Delhi Development Authority Vs. Human Care Medical Charitable Trust [(2016) SCC OnLine Del 629];

(xiii) Iridium India Telecom Ltd. Vs. Motorola Inc. [(2011) 1 SCC 74];

(xiv) India Gold Ltd. Vs. State of Maharashtra and Anr. [(2018) SCC OnLine Bom 10040]

18. Learned Advocate for Respondent/CBI submitted that CBI has investigated the crime and ascertain trail of the fund which had gone into the account of the petitioner. The respondent No.3 was the complainant. The officer of Respondent No.3 and others have committed the fraud causing loss to the Respondent No.3.

19. Respondent No.3 has filed affidavit-in-reply. Petitioner has filed affidavit in rejoinder.

20. Learned Advocate for Respondent No.3 submitted that, there is no infirmity in order dated 20th April 2019. Respondent No.3 had claimed the amount to be returned to the account of Respondent No.3 as this amount does not belong to the petitioner which has been transferred from various fictitious accounts into the account of petitioner. On the basis of term deposit secured from these organizations and loan application signed by corporate organizations as well as on the basis of false, fabricated and

forged documents in the name of this organization, the accused hatched conspiracy and availed loan of Rs. 223.25 crores and diverted funds of these organizations and siphoned off the same by transferring the said amount to various fictitious accounts causing loss of Rs. 244.81 crores to Dena Bank. During investigation, the money trail was ascertained and it was revealed that amount of Rs.35,65,30,827/- were diverted from various account of corporate organization and same was transferred illegally to the account of petitioner in their genuine accounts. The investigation revealed that the amounts are part and parcel of the amount siphoned off from the various accounts and hence it was directed that the account be freezed in accordance with Section 102 of Cr.P.C. The prosecution has found trail of Rs. 128,98,97,379/- lying in various accounts. The details of this amount are mentioned in the supplement charge-sheet. The prosecution has also mentioned details of untraced account transaction and the total amount misappropriated or siphoned by the accused which is to the tune of Rs. 241,81,93.478/-. The application at exhibit-9 was filed by petitioner only when Respondent No.3 filed application bearing No. 784 of 2018. Hence, no case is made out to interfere in the impugned order.

21. Learned Special Judge while passing order dated 20th April 2019 has observed that, in the earlier Misc. Application No. 152 of 2014 which was filed by petitioner for defreezing the account of amount of Rs. 26 crores including the impugned account with HDFC and ICICI. Dena Bank was not

the party. The amount of Rs.26 crores was released to the petitioner on furnishing security to the extent of said amount. Investigation is completed and charge-sheet is filed. Fraud was committed by Dena Bank to the tune of Rs. 220 crores. Dena Bank is the main victim. Prima facie it also appears that the petitioner is also victim. Court while considering the better person to hold the custody. The fraud has happened in Dena Bank. The petitioner had invested the amount in Dena Bank. During investigation it was revealed that fictitious account of petitioner was credited. Amount was transferred to fictitious account and also genuine account. Hence flow of fund from one account to another is tainted. The amount appears to be connected with crime. Thus, it is not only fact that Dena Bank is the better victim. The application preferred by Respondent No.3 was allowed but the Court also noted the factual aspects of the matter assuming that the order passed by learned Special Judge is not happily worded it. Observation in paragraph 9 of the impugned order assigned reasons for allowing the application. There is no reason to interfere in the impugned order.

22. The prosecution case is that, the accused in connivance with Bank Manager of Dena Bank at Malabar Hill Branch and others committed fraud of Rs. 220 crores on Dena Bank. The investigation revealed that Rs.35,65,30,827/- was diverted from the various accounts of the corporate organizations and transferred to the account of the petitioner in genuine accounts. The amounts were transferred to various fictitious account to the

extent of petitioner. In the reply filed by CBI, details of the flow of amount has been provided. The investigation revealed money trail to the account of petitioner and others. In the light of the fact of this case merely on the ground that, the amount was transferred into petitioner's account, the petitioner cannot become better claimant. The decisions relied upon by learned advocate for petitioner were delivered in the fact of those cases and are not applicable in the present case. I do not find any reason to interfere with the impugned order dated 20th April 2019 passed by learned Special Judge in Misc. Application No. 784 of 2018 and Exhibit-9.

ORDER

(i) Criminal Writ Petition No.4954 of 2019 is rejected.

(ii) Criminal Writ Petition No. 2630 of 2019 is rejected.

(iii) At this stage, learned counsel for petitioner submitted that interim stay granted by this Court may be extended by four weeks to enable the petitioner to challenge the order before higher Court. The request is strongly opposed by advocate for Respondents. The stay was operating since 9th May 2019. Interim stay granted in Criminal Writ Petition No. 2630 of 2019 is extended by four weeks from today.

(PRAKASH D. NAIK, J.)