



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

CRIMINAL WRIT PETITION NO. 1786 OF 2024

Shridhar s/o Udhav Kolpe,
Age:- 41years, Occ. Agri.,
R/o Dhanora, Tq. Ausa,
Dist. Latur.

... **PETITIONER**

V/s.

The State of Maharashtra,
Through Police Inspector,
Nilanga Police Station,
Tq. Nilanga, Dist. Latur.

... **RESPONDENT**

.....
Mr. P.P. More, Advocate for the Petitioner
Mr. V.M. Jaware, APP for the Respondent-State
.....

CORAM : Y.G. KHOBRAGADE, J.
DATE : 22.11.2024

ORAL JUDGMENT:-

1. Rule. Rule made returnable forthwith. The learned APP waives notice for the Respondent-State. Heard finally with consent of both the sides.
2. By the present petition the Petitioner has challenged the order dated 18.04.2024 passed by the learned Additional Sessions Judge, Nilanga below Exh.330 in MPID No.1/2016.
3. Needless to say that the Petitioner-Accused is facing trial in Crime No.110/2015 registered with Nilanga Police Station, District Latur for the

offence punishable under Section 420, 406, 409 read with Section 34 of the I.P.C. and under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. After due investigation the Investigating Officer filed a charge-sheet which has been registered as MPID No.1/2016 and it is pending on the file of the learned Additional Sessions Judge, Nilanga. On face of record, it appears that on 22.03.2021 the Hon'ble Supreme Court passed an order in Misc. Application No.1661/2020 in D.No.35850/2018 in Shridhar V/s. State of Maharashtra and released the accused on bail on deposit of security to the tune of Rs.56,00,000/- within a period of three months. However, on 17.03.2023 the Hon'ble Supreme Court passed an order in Misc. Application No.524/2023 in Misc. Appln. 1661/2020 in SLP [CRL.] Diary No.35850/2018 (Shridhar V/s. State of Maharashtra) and permitted the Petitioner/Accused to offer immovable property as security either of or his relative / friend of Rs.56,00,000/-. However, the Petitioner sought modification of the same as he wanted that the property be released on his desire to sale the same and replace the existing security with either the bank guarantee / fixed deposit / LIC policies / Govt. security bond / cash / immovable property of his own or his relatives or friend.

4. In pursuance of said order of the Hon'ble Supreme Court the Applicant/Accused furnished security of one Prabhakar Shetti who is having landed property bearing gut no.93, ad-measuring 00 H.24 R bearing mortgage

no.4499/2023 dated 20.09.2023 and said security is also accepted by the trial Court. Since then the Applicant/Accused is on bail. However, the Petitioner/Accused wanted to replace the security on the ground that the security holder Prabhakar Shetti is having some financial crisis and said security holder wanted to release the property. Therefore, the Petitioner/Accused is willing to furnish another security Shri Gopal Govind Sathe who is having landed property bearing land survey no.125/A/2/1/B ad-measuring 1 H 48.95 R worth of Rs.1,48,95,000/- as per the revenue assessment.

5. It is submitted that the security or the surety can be replaced either by the Accused or the surety holder if they are having any dues or they are not willing to stood as a security or surety. In the case in hand, the Hon'ble Supreme Court has already permitted the Petitioner to submit security to the tune of Rs.56,00,000/- and in pursuance of the said order dated 22.03.2021 and modified order dated 17.04.2023 the present Applicant-Accused wanted to replace/change his security holder to Gopal Govind Sathe instead of Shri Prabhakar Shetti. Therefore, it would be just and proper to permit the present Petitioner to change the security. However, the learned trial court passed the impugned order dated 18.04.2024 and rejected the application on the ground that the application has not been presented by the security holder, which apparently is illegal and liable to be quashed and set aside.

6. Accordingly, the Petition succeeds. The learned trial Court is hereby directed to accept the security of Gopal Govind Sathe who is willing to furnish security against his landed property bearing land survey no.125/A/2/1/B ad-measuring 48.95 R worth Rs.1,48,95,000/-. The learned trial Court shall verify the said solvency / mortgage / security from the Competent Authority and after the said report is received then the trial Court may release the earlier security of the Petitioner Mr. Prabhakar Shetti, security holder.

7. Accordingly, Rule is made absolute in terms of prayer clause-B.

[Y.G. KHOBRAGADE, J.]