

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

WRIT PETITION NO. 2970 OF 2024

Prakash Pandhari Solankar

.. Petitioner

v/s.

State of Maharashtra & Anr.

.. Respondents

Mr. Drupad S. Patil a/w. Ms. Srushti S. Chalke for the Petitioner.

Ms. R.V. Newton, APP for the Respondent-State.

Mr. Abhishek Nandimath for Respondent No.2.

API Kailas Kodag, of Kodoli Police Station, Kolhapur, present.

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**CORAM : SHYAM C. CHANDAK, J.
DATE : 13th AUGUST, 2024.**

P.C. :

1) Present Petition filed under Article 227 of the Constitution of India and under Section 482 of the Criminal Procedure Code, seeks quashing and setting aside of impugned Order dated 23rd June 2023, passed by the learned Judicial Magistrate First Class, Panhala. By the said Order the learned Magistrate rejected the Cril. Misc. Application No.28 of 2023 in C.R.No.184 of 2022. Said Cril. Misc. Application No.28 of 2023 was filed with a prayer to de-freeze Savings Account No. 073310100006707 in the name of Applicant, operating with Bank of India, Marawade Branch, Tal.Mangalvedha.

2) Heard Mr. Patil learned Advocate for the Applicant, Ms. Newton, learned APP for the Respondent No.1-State and Mr. Nandimath learned Advocate for the Respondent No.2. Perused the Application.

3) Rule. Rule is made returnable forthwith and with the consent of parties taken up for final hearing.

4) The said Account was freezed in connection with the aforesaid C.R.No.184 of 2022 registered with Kodoli Police Station, under Section 379, 406, 417, 418 and 420 of the Indian Penal Code, on the report of Respondent No.2 on the allegations that by a Sale Deed dated 8th July 2022, the Applicant sold his Tractor along with Trailer to the Respondent No.2 for a consideration of Rs.9,00,000/-. Before that, the Applicant handed over the Tractor and Trailer to the Respondent No.2 on 1st July 2022, as the deal was orally finalised. Out of said amount, the Respondent No.2 paid Rs.8,70,000/- to Applicant. However, the Applicant committed theft of the Tractor and Trailer, when it was engaged in Sugarcane cutting work. During investigation, the police seized the Tractor and freezed the said Account. Later on, the Tractor was released on *Supratnama* bond of Respondent No.2. However, the Applicant's prayer to de-freeze his Account was rejected by the impugned Order. Hence, Petition.

5) Admittedly, the Tractor is handed over in the interim custody of Respondent No.2. However, learned trial Court rejected the Application seeking de-freezing of the Bank Account for the reasons that the offence is serious, economical and technical in nature; that huge amount is involved in the crime; that the Applicant has cheated the Respondent No.2 and illegally removed the Tractor along with Trailer without the consent of Respondent No.2; that the investigation was in progress.

6) Learned APP submitted that investigation in the crime is over and charge-sheet has been filed on 22nd July 2023. API Kailas Kodag, instructed by the Sr. Police Officer concerned is present and through learned APP states that as the charge-sheet is filed, the Account may be de-freezed.

7) Learned Advocate for the Respondent No.2 submitted that the Trailer is yet not seized. He submits that, the Applicant may be directed to file fresh Application for de-freezing his Bank Account as his first application was rejected before filing of the charge-sheet.

8) However, the learned Advocates for the parties fairly stated that, so far the Applicant and Respondent No.2 have spent about Rs.2 lacs each in the litigation germane to the Crime. The Applicant and Respondent No.2 are present before the Court and they

have not denied this fact. By now the Trailer is quite old. Relegating the Applicant to file a fresh application for de-freezing his Account would certainly burden the parties financially. This is not in their interest, as they both are agriculturists and economically not capable to endure expenses of the fresh Application. The Applicant is facing hardship due to freezing of the Account. There is no hurdle to de-freeze the Account from the investigation point of view.

9) In view thereof, the Petition deserves to be allowed. Hence following order :

- ORDER -

- i) Writ Petition No.2970/2024 is allowed.
- ii) The impugned Order dated 23rd June, 2023 passed by learned Judicial Magistrate First Class, Panhala is set aside.
- iii) The Savings Account No. 073310100006707 of Bank of India, Marwade Branch, Tal.Mangalvedha, in the name of Applicant, shall be immediately de-freezed by the Bank of India.
- iv) Writ Petition is disposed of in the aforesaid terms.
- v) Rule is made absolute.

(SHYAM C. CHANDAK, J.)