



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

CRIMINAL WRIT PETITION NO.35 OF 2024

Nitin S/o Dagdu Jadhav,
Age-42 years, Occu:Private Job,
Permanent R/o-Mogha (Bk.),
Taluka-Loha, District-Hingoli.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Secretary, Home Department,
Mantralaya, Mumbai,
- 2) The Collector,
Hingoli, District-Hingoli,
- 3) The Director General of Police,
State of Maharashtra,
Police Headquarters, Old Council Hall,,
Shaheed Bhagat Singh Marg,
City-Mumbai, Pincode-400001,
- 4) The Special Inspector General Office,
IG Office, Nanded,
- 5) The Superintendent of Police,
S P Office, Hingoli,
- 6) The Police Inspector,
Hingoli City Police Station,
Hingoli.

...RESPONDENTS

...
Mr. Dhananjay M. Shinde Advocate for Petitioner.
Mr. G.A. Kulkarni, A.P.P. for Respondents.
...

**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE : 19th SEPTEMBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present petitioner was the original accused No.2 in in Regular Criminal Case No.225 of 2006 before the learned Judicial Magistrate First Class, Court No.1, Hingoli, which came to be decided on 20th October 2015. The petitioner was acquitted of the offence under Section 420 read with Section 34 of the Indian Penal Code and Sections 5, 6 and 8 of the Maharashtra Prevention of Malpractices Act, University, Board and Other Specified Examinations Act, 1982. Before the learned Magistrate, at the time of case itself a fact was on record that an amount of Rs.1,90,000/- was found with accused No.2 i.e. with the present petitioner in connection with the alleged examination scam. Seizure panchnama was also prepared and therefore, at the time of recording statement under Section 313 of the Code of Criminal Procedure of the petitioner, he stated that it is his own amount and that should be returned to him. At the time of Judgment, a specific order has been passed that the said amount be returned to the petitioner, after the appeal period is over.

2. It appears that by filing Criminal Miscellaneous Application No.56 of 2016 i.e. after the appeal period is over, the petitioner prayed for the return of the amount which was stated to be still with the police station. In the say, the prosecution says that appeal has not been filed challenging the judgment of acquittal, however, as regards the amount is concerned, seizure thereof was not recorded to the Muddemal register. It might have been with the investigating officer, Assistant Sub Inspector Tekam, however he expired. The Muddemal was then given to Police Inspector V.G. Sontakke, who had then given it to Police Head Constable Ude. It was then stated that it is not confirmed as to who is having possession of the said property/cash. The learned Judicial Magistrate First Class, Court No.1, Hingoli, by a detailed order, allowed the Criminal Miscellaneous Application No.56 of 2016, on 27th July 2016 and once again directed that the amount of Rs.1,90,000/- be searched and given to the applicant therein i.e. present petitioner. It appears that the present petitioner had then approached learned Additional Sessions Judge, Hingoli, in Criminal Revision No.18 of 2016, under Section 397 of the Code of Criminal Procedure, as there was no order of immediate payment. The Revision was dismissed taking into consideration that the order is for compliance and the revision applicant may

approach the learned trial Court and request for action under the Contempt of Courts Act. That was also filed as it appears, vide Miscellaneous Criminal Application No. 108 of 2017 and the say has been given that it is not traceable as to in whose possession the said Muddemal was.

3. The fact is certain that the said amount was seized and was in the custody of police. When there is acquittal of the petitioner from the said offence and the prosecution has not filed any appeal, the order of refund or return of the money to the petitioner, should be adhered to. It would be the internal matter of the police to search, as to in whose possession the said property was, or in other words it can be said that who was responsible for the loss of the amount. The petitioner should get his amount back.

4. Therefore, we allow the Writ Petition partly. Respondent Nos.5 and 6 are directed to return the amount of Rs.1,90,000/- to the petitioner within a period of one month from today. The prayer for interest is rejected.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE