



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

**CRIMINAL APPLICATION NO. 119 OF 2024
IN BA/1259/2022**

1. SHAIKH SHAMSUL HAQ S/O MOHAMMED ABDUL HAQ
2. MOHAMMED ABDUL HAQ S/O MOHAMMED QASIM
3. SHAIKH HANIFA BEGUM W/O MOHAMMED ABDUL HAQ
4. SHAIKH NAZEER S/O ABDUL RAZZAK
5. ASMA PARVEEN W/O MOHAMMED HAMID ALI
6. NASEERUDDIN S/O. ZAHEERUDDIN SIDDIQUI
7. RUBINA MOHAMMED NASEERUDDIN SIDDIQUI
8. QUAZI KHABEER AHMED MOHAMMED NASEER
9. QUAZI ABUBAKER AHMED QUAZI KHABEER AHMED
10. QUAZI ZAID AHMED QUAZI KHABEER AHMED
11. MOHD. ALI KHAN S/O. AMAD UL HAQ KHAN
12. MOHD. ABDUL HASAN SIDDIQUI

VERSUS

1. JUNAID KHAN S/O JAVED KHAN
2. THE STATE OF MAHARASHTRA THR. POLICE INSPECTOR
CITY CHOWK POLICE STATION AURANGABAD

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Advocate for Applicant : Mr. Kulkarni Rashmi S. a/w Ashish R.
Kachole a/w Adv. Riya Pande
APP for Respondents: Mr. P.P. Dawalkar

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**CORAM : SANJAY A. DESHMUKH, J.
DATED : 30th SEPTEMBER, 2025.**

PER COURT :-

1. The applicant has filed this Criminal Application for withdrawal of the amount. The applicant prayed for the following reliefs:

- “A) The applicants may be allowed to withdraw the amount of Rs.5,00,000/- (Rupees Five Lakhs Only) and the accrued interest thereon deposited by the respondent No.1 in this Hon’ble Court to be divided equally between them.*
- B) The Hon’ble Court may kindly direct the office to transfer the deposited amount of Rs.5,00,000/- (Rupees Five Lakhs Only) and the accrued interest thereon to all the applicants equally in account details given in paragraph No.4.”*

2. Learned advocate for the applicants pointed out that Bail Application No.1259/2022 was allowed by this Court by an order dated 18.08.2023. As per the directions of this Court, the present respondent No.1 - accused deposited an amount of Rs.5 lakh in this Court. The applicants and other 58 persons are entitled for an amount of Rs.2.09 crore, out of 58 depositors 12 depositors are objected the bail application and they are now claiming the amount of Rs.5 lakh deposited in this Court.

3. Learned advocate for the applicants submitted that the regular bail was granted to the respondent No.1 – accused to settle the claim initially but he did not settle the claim. It is further submitted that the respondent accused further told that you settle the claim and as soon as amount is received he will deposit it. However, only an amount of Rs.5 lakh is deposited in this Court. It is not disputed that the applicants deposited amount with the respondent No.1 and are liable to pay. The learned advocate for the applicants also submitted that the competent authority is not appointed by the State Government as per Sections 4 and 5 of the Maharashtra Protection

of Interest of Depositors (in Financial Establishments) Act, 1999 (MPID Act) for seizing the property of the respondent No.1 – accused.

4. Learned advocate for the applicants submits that this Court be allowed the applicants to withdraw the said amount. Learned advocate for the respondent submitted that only the special Court is vested with the powers to release the amount deposited in this Court. This Court has no jurisdiction to decide this.

5. The learned A.P.P. for the State submitted that proposal was sent to the State Government to appoint the competent authority for two times, however, those were rejected, as there was no compliance of requisites as per the provisions of MPID Act. It is lastly prayed to reject the application. There are other 48 victims of the crime and they are also entitled to recover the amount deposited by the respondent No.1.

6. Perused the application and the reply of the respondent Nos.1 and 2. The competent authority is not yet appointed as per Sections 4 and 5 of the MPID Act. This Court has granted conditional bail to the respondent No.1 – accused to deposit the amount. The applicants are vigilant for their rights. When there is no law, Court has to take its own recourse on the basis of rationality in the interest of justice as held by this Court in the case of ***Dr. Rajaram Shendge Vs. State of Maharashtra; 2024 ALL M.R. 2472.***

7. The applicants are claiming an amount of Rs.5 lakhs which is deposited by the respondent No.1 - accused. If the said amount is paid to the said 12 depositors, no prejudice would cause either to the respondent No.2 and other depositors. The applicants are vigilant for their rights and if the said amount is paid to them it can be adjusted while adjudicating final claims of all the claimants if the some or entire amount is deposited by the accused - respondent No.1 in the special court. Therefore, considering the principle of the rationality laid down in the above authority of **Dr. Rajaram Shendge** (supra) the applicants' claim deserves to be allowed.

8. As the amount is deposited in this Court as per the directions of this Court while granting bail to the respondent No.1. It is to be noted that an amount deposited by the respondent No.1 which is recovered by the action of the competent authority by realizing the properties of the respondent No.1, therefore, this Court has power to dispose of the said amount and no prejudice would cause to the other depositors as well as the respondent No.1.

9. The application, therefore, deserves to be allowed in terms of prayer Clause 'A'. The applicants are entitled to withdraw equal amount lying in this Court along with accrued interest thereon deposited by the respondent No.1 - accused. If the power of attorney is submitted the concern officer is directed to disburse the said amount equally to the power of attorney holder after its verification.

10. The application is allowed and disposed of.

(SANJAY A. DESHMUKH, J.)

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