



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

45 CRIMINAL WRIT PETITION NO. 390 OF 2025

GSCHAN INFRABUILD LLP THROUGH ITS PARTNER GANESH TRIMBAK
SARAF
VERSUS
NARESH RAMNIVAS AGRAWAL AND ANOTHER

Mr. J.V. Deshpande and Mr. S.N. Dudhate, Advocate for the petitioner.
Mr. M.B. Borse, Advocate for respondent No.1.
Mr. R.B. Dhaware, APP for respondent No.2-State.

CORAM : KISHORE C. SANT, J.
DATE : 30.07.2025

PC :-

01. Heard learned Advocates for the parties.
02. The petitioner has come to this Court challenging an order passed by the learned I/c. Additional Sessions Judge, Aurangabad dated 20.02.2025, rejecting Criminal Revision Application No. 2 of 2025 filed by the present petitioner. Revision was filed against the order passed by the 17th JMFC, Aurangabad dated 19.12.2024. By way of the order, the learned JMFC refused to defreeze the account of the petitioner maintained in the Kotak Mahindra Bank having account No. 9822379863.
03. Brief facts giving rise to the present petition are that the

petitioner is in the business of manufacturing of prefab material and supply the same. Respondent No.2 happens to be a trust. Respondent No.2 placed an order for supply of prefab material for construction of Girls' hostel at Silligudi, West Bengal. It appears that initially some material was sent by the petitioner to the respondent and there is no dispute about the same. The respondent, however, thereafter filed a complaint with Pundalik Nagar Police Station bearing Crime No. 388 of 2024 for the offences punishable under section 316 (2) and 318 of the Bhartiya Nyay Sanhita. It is allegation that by non-supplying the entire material, the petitioner has cheated the respondent. During the investigation, police directed the bank to freeze the account of the petitioner. On direction of the police, the account is freezed. The petitioner filed application in the Court of learned JMFC for direction to de-freeze the account. The learned JMFC, however, rejected the application. Revision against said order also came to be rejected.

04. Learned Advocate Mr. Deshpande for the petitioner vehemently argued that the complaint itself was not maintainable. The dispute is clearly of a civil nature. No intention to deceive is shown since inception. He submits that till now the material worth Rs.4 Crore 11 lakhs approx. is already sent and is also used by the respondent. Looking at

the complaint, it can be said that at the most it is a civil dispute. He further submits that keeping the amount lying in the account is not in the interest of any of the parties. The petitioner is ready to supply remaining material. However, since due to paucity of funds because of freezing of the account, the petitioner is not in a position to supply the material. He submits that both the Courts failed to appreciate that this is a civil dispute. He prays for allowing the petition.

05. Learned Advocate Mr. Borse for respondent No.1 vehemently opposes the petition. He submits that till now the respondent has sent an amount of Rs. 5 crores and 27 lakhs apprx. to the account of the petitioner. The material of Rs.1 crore 16 lakhs approx. is still not sent by the petitioner. This clearly shows malafide intention on the part of the petitioner. Even during the pendency of the proceeding one truck material was sent, however, the material was found to be of inferior quality and not suitable for construction. If the account is de-frozen, the amount standing in the account will be mis-utilized and therefore it is necessary to keep the account in frozen condition.

06. Learned APP submits that as on today the amount lying in the account is Rs. 29 lakhs and some odd account. He submits that it was

necessary to secure the interest of the parties and therefore the account was directed to be freezed.

07. From reading of the FIR itself it is clearly seen that there was transaction between the parties of supply of material. Pursuant to agreement nine trucks material is also sent. As per the petitioner only one truck material is yet to be sent. Due to paucity of funds, same could not be sent. On the other hand it is case of the respondent that the material sent during pendency of the proceeding is of inferior quality and is of no use. From the submissions it is seen that out of Rs. 5 crores and 27 lakhs sent by the respondent, the material is sent by the petitioner. Out of the said amount the material yet to be received is only of Rs. 1 crores 16 lakhs approx. Looking from this angle also it is seen that the petitioner has sent large portion of material and he is not in a position to send further material because the amount is lying in the freezed account.

08. By looking to the order passed by the learned JMFC, it is seen that he has observed that the dispute appears to be of civil nature and has still not defreezed the account. The learned Sessions Court on one hand said that the amount lying in the account is Rs. 5 lakhs and did not de-freeze the account. It is beyond comprehension that as to what made

the learned JMFC not to defreeze the amount even when he recorded that the dispute appears to be of civil nature. Learned Sessions Judge also observed that the amount is of Rs. 5 lakhs. It is not clear as to how that much amount is sufficient to secure interest of the respondent? This Court thus finds that reasoning given by both the Courts below is not proper. In any case, no purpose would be served by keeping the account in freezed condition. This Court had granted 2-3 chances for the purpose of mediation and to settle the matter. However, the parties could not arrive at any settlement. This Court is convinced that no purpose would be served by keeping the account in freezed condition.

09. In view of above, this Writ Petition is allowed in terms of prayer clause (B) and is disposed off accordingly with no order as to costs.

[KISHORE C. SANT, J.]