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

54 CRIMINAL WRIT PETITION NO. 864 OF 2024

RAJENDRA S/O RAMKARAN PAL

....Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondent

Mr. M. P. Tripathi, Advocate for the petitioner

Mrs. A. S. Deshmukh, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 15th JULY, 2025

P. C.

1. Heard.

2. The petitioner has challenged the order dated 28-02-2024 passed below Exh. 1 in Criminal Misc. Application No. 35/2022 by the learned Additional Sessions Judge, Parbhani rejecting an application of the present petitioner for return of the amount of Rs.24,84,000/- seized in Crime No. 233/2021 registered with Selu Police Station, Dist. Parbhani.

3. That s prosecution launched against the present petitioner. In connection with the investigation, the Investigating Officer had been to the flat of the petitioner in Bombay where his son and daughter were present. In the search of the flat the police found the amount of Rs. 24,84,000/-. The son and daughter could not give explanation about the said amount. The amount is therefore, seized by the police.

4. The present petitioner who is facing the trial filed an application before the learned Sessions Judge for return of the amount. It is the case of the petitioner that the said amount was received by him towards property transaction. The petitioner sold his ancestral property in Uttar Pradesh. However, before transaction could complete, the Corona Pandemic started and therefore, he could not execute the sale deed.

5. The learned Sessions Judge observed that the amount is seized by the police in connection with the Crime. The departmental enquiry is also going on against the petitioner and

therefore, it would not be proper to return the amount. With this, the application came to be rejected.

6. The learned advocate for the petitioner vehemently argued that there is no charge or offence against the petitioner about the disproportionate property. The cash amount was towards property transaction. Only because of pandemic period the transaction could not be completed. The petitioner is ready to furnish solvent surety to take care of the amount. He is ready to give undertaking that in case, amount is required, said amount shall be recovered from his pension. As on today, he is receiving only provisional pension. It is not shown that the petitioner is being prosecuted for disproportionate assets. Merely because departmental enquiry is pending, there was no reason for the learned Sessions Court to reject an application. The departmental enquiry is totally independent of the criminal case, having its own consequences. For the said purpose amount need not be kept idle.

7. The learned APP opposed the application. She submits that amount is involved in serious crime i.e. under Prevention of Corruption Act. When the amount is seized, relative of the applicant could not give explanation as to why such huge amount is kept in the house. In any case she submits that the petitioner is facing trial. The trial is at the stage of framing of charges. After the conclusion of the trial, the learned Sessions Court would pass an order in respect of the amount. She, thus, submits that the petition deserves to be dismissed.

8. Having heard the parties, this court is of the view that keeping the amount idle is not in the interest of any of the parties. Admittedly, the amount is seized from the house of the petitioner. The care of the interest of the parties can be taken by putting conditions on the petitioner.

9. Considering above, following order :

ORDER

a] The criminal writ petition stands allowed.

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b] The respondents to release the amount of Rs. 24,84,000/- to the petitioner on getting an undertaking from the petitioner that in case, amount is required by the court, the petitioner shall deposit the amount within four weeks from the date of such order.

c] Above shall be subject to petitioner giving solvent security/surety to the satisfaction of the concerned court.

d] With this, the criminal writ petition stands disposed off.

[KISHORE C. SANT, J.]

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