



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

**940 CRIMINAL APPLICATION NO. 3007 OF 2024
IN ABA/381/2019**

1. Shubhangi Chandrakant Kulkarni
Age: 49 years, Occu.: Household,
R/o. Dashmesh Nagar, Chhatrapati
Sambhajnagar (Aurangabad).
2. Jyoti Vijay Deshmukh
Age: 47 years, Occu.: Household,
R/o. New Shanti Niketan Housing Society,
Trimurti Chowk, Chhatrapati Sambhajnagar
(Aurangabad).
3. Sunanda Vijay Surana
Age: 62 years, Occu.: Household,
R/o. Plot No.9, Ulkanagari,
Chhatrapati Sambhajnagar (Aurangabad).
4. Shukriya Vijay Jadhav
Age: 42 years, Occu.: Household,
R/o. Mitra Apartment, Maher Nagar,
Garkheda, Chhatrapati Sambhajnagar
(Aurangabad).
5. Hira Dilip Wadekar
Age: 40 yrs., Occu.: Household,
R/o. Galli No.1, Hanuman Nagar,
Garkheda Parisar, Chhatrapati
Sambhajnagar (Aurangabad).
6. Alka Chidambar Borulkar
Age: 45 years, Occu.: Household,
R/o. Galli No.1, Hanuman Nagar,
Garkheda, Chhatrapati Sambhajnagar
(Aurangabad).
7. Shree. Suvalal S/o. Mankchand Nabriya
Age: 60 yrs., Occu.: Business,

R/o. Sangm Cloth Center, Near Tara Pan Center,
Osmanpura, Chhatrapati Sambhajnagar
(Aurangabad).

8. Rajani W/o Kamlesh Mandore
Age: 34 yrs., Occ.: Household,
R/o. Balkrushna Nagar, Pundalik Nagar,
Chhatrapati Sambhajnagar (Aurangabad).Applicants
(Original Victim)

Versus

1. The State of Maharashtra
Through Pundalik Nagar Police Station,
Chhatrapati Sambhajnagar (Aurangabad).
2. Anuradha Suresh Pawar
Age: 42 years, Occu.: Business,
R/o. Plot No.704, Ved-Mantra Apartment,
Near S.R.Petrol Pump, Pundalik Nagar,
Chhatrapati Sambhajnagar (Aurangabad)
Dist. Chhatrapati Sambhajnagar (Aurangabad)....Respondents
(Original Accused)

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Advocate for Applicants : Mr.Gaurav L. Deshpande (through VC)

APP for Respondents no.1 : Mr.P.K.Lakhotiya

Advocate for Respondent no.2 : Mr.Deelip J.Choudhari

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 06 FEBRUARY, 2025

ORDER :-

1. Learned counsel for applicants pointed out that, instant application is for withdrawal of amount deposited by the convict as per the directions of this Court.

2. He pointed out that, crime was registered under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID Act) and under Sections 406 and 420 read with 34 of the Indian Penal Code (IPC). After trial, conviction was recorded for offence under Sections 406 and 420 of the IPC. He further pointed out that, appeal against the said judgment and order has been preferred and the same is pending. Learned counsel further pointed out that, while seeking relief of suspension of sentence and grant of bail, on the point that respondent no.2 has already deposited Rs.20,00,000/-, this court had suspended the sentence and granted bail by order dated 05.07.2024. He pointed out that, in paragraph no.73 of the judgment and order passed by learned trial court, there is discussion for distribution of the amount deposited by the investors.

3. According to learned counsel, as regards to present applicants are concerned, there were directions by learned trial court that they are entitled for amount to the extent of respective shares. That, amount is lying deposited in this court. It is further submitted that, applicants are in need of finances. The amount invested of, which they were defrauded, was hard earned retirement benefits and

was a only source of income and survival. Hence, he seeks permission to withdraw the amount deposited by respondent no.2.

4. Learned counsel for respondent no.2 opposed on the ground that appeal is *sub judice*. That, there is every likelihood of appeal getting allowed on merits and if respondent no.2 succeeds, then there is no question of returning the amount. For such reasons, he opposes the instant application.

5. Heard. Perused the papers.

6. Present application is at the instance of original complainant including investors in scheme floated by present respondent no.2. On the report of complainant, initially crime was registered for above provisions and respondent no.2 was tried vide Special Case (MPID) No. 07 of 2019 resulting into conviction by judgment and order dated 24.05.2024. Against the said judgment and order, criminal appeal has been preferred before this court and the same is admittedly *sub judice*. It is pointed out that, present respondent no.2 had applied for anticipatory bail vide Anticipatory Bail Application No.381 of 2019 and on condition of depositing

Rs.20,00,000/-, this court extended the benefit of bail. There is no dispute that, respondent no.2 has deposited said amount in consequence to said directions. This Court by order dated 13-08-2019 issued directions to transfer the said amount to the learned trial Court and further directed the learned trial Court to pass appropriate orders about the same at the conclusion of the trial. Now, prayers are raised to allow applicants to withdraw the amount deposited in above conditional order. As stated above, main appeal is pending, and is yet to be heard on its own merits. Under such circumstances, though there are directions by learned trial court for distribution of share, matter being *sub judice*, above relief cannot be granted.

7. Criminal Application No. 3007 of 2024 is rejected.

(ABHAY S. WAGHWASE)
JUDGE