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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CRIMINAL WRIT PETITION NO. 1816 OF 2024

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
SURESH DNYANOBA KUTE AND ANOTHER

Mr.S.B.Jadhav, APP for the petitioner/State.

Mr.S.V.Suryawanshi, Advocate for respondent Nos. 1 and 2.

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 18 SEPTEMBER 2025

PER COURT :

1. Heard the learned APP for the petitioners/State and the learned Advocate for the Respondents.

2. The petitioners/State is challenging the order dated 15.06.2024 passed by the learned Additional Sessions Judge, Majalgaon in Crime No.209/2024, registered at Majalgaon City Police Station for the offences punishable under Sections 420, 409 r/w Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. According to the petitioners, one informant namely Balasaheb Pandurang Dhere had filed complaint in respect of misappropriation done in one Dnyanradha Multi State Co-operative Credit Society, Dist. Beed, Majalgaon Branch. The crime was registered against respondent No.1 and one unknown person. The petitioners/State had arrested respondents on 07.06.2024. When respondent Nos. 1 and 2 were brought before the Sessions Court at Majalgaon, Dist Beed, at that time, the prosecution got their custody remand till 13.06.2024. According to the petitioners/State, the respondents were arrested following the due process of Law. On 13.06.2024, the Investigating Officer again sought custodial remand of the respondents. however, the Trial Court, on the same day vide impugned order was pleased to reject the remand report for police custody of both the respondents and directed to keep both the respondents under house arrest in the house of respondent No.1 in Beed City till 14.06.2024. Respondents had also filed an application alleging that their arrest is illegal and their application for bail be allowed. The learned Sessions Judge, by the impugned order dated 15.06.2024, declared that the arrest of both the respondents is illegal and released them on bail. The said order is sought to be challenged by the petitioners in these proceedings on the

ground that the offences committed by the Accused persons are economic offences and alleged to be serious in nature. Apart from the instant crime, there are other crimes already registered against them. According to the learned APP, the Police machinery has followed the due procedure while arresting them. They were arrested within 24 hours of the report. The learned APP for the petitioners states that the learned Trial Court, while passing the impugned order, has erroneously relied upon the judgment passed by the Hon'ble Apex Court in **Priya Indoria Versus State of Karnataka [(2024) 4 SCC 749]**, on the ground that the facts of the instant case are totally different than the case in hand, which is relied upon by the petitioners. Accordingly, quashing of the impugned order by allowing the instant petition, is prayed by the learned APP.

4. According to the learned Advocate for the respondents, the judgment relied upon by the learned Sessions Court in Priya Indoria (supra) has been correctly applied and relied upon and further submits that if the prosecuting authority wants to arrest the respondents, they can do so, however by following the appropriate procedure of Law as they are already in custody. According to him, this order shall not

come in the way of prosecution while arresting them again. Hence he prayed for dismissal of the instant writ petition.

5. Considering the above, it is clear that there is no prohibition for the prosecution to arrest the respondents/accused. Subsequently, further while doing so, they are required to follow and take care of the provisions of Law.

6. In view of the above, the instant petition is disposed of. The prosecution is entitled to effect the arrest of the respondents after following the due procedure of Law.

(SUSHIL M. GHODESWAR, J.)