



- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CRIMINAL WRIT PETITION NO. 1815 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 16.06.2024 passed by the Incharge District Judge-3 and Assistant Sessions Judge, Beed (Holiday Court) in remand report in Crime No.113/2024, registered at Beed City Police Station for the offences punishable under Sections 420, 406, 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 Mahadev Manmathappa Andhalkar had filed complaint in respect of mis-appropriation done in one Dnyanradha Multi State Co-operative Credit Society, Dist. Beed, Shivaji Nagar Branch. In the said crime, there were more than 7 persons. 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 initially got their custody remand for 2 days and then they were reported to be released on bail. They were again arrested in Crime No.113/2024. According to the petitioners/State, the respondents were arrested following the due process of Law. On 16.06.2024, the Investigating Officer sought custodial remand of the respondents for 7 days. However, the learned Sessions Court, vide impugned order dated 16.06.2024 was pleased to reject the remand report for police custody of both the respondents. 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, declared that the arrest of both the respondents is illegal. 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 Sessions Judge, while passing the impugned order, has erroneously relying 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 is totally different than the case, 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.)