

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Writ Petition No.421 of 2025

With

Criminal Writ Petition No.438 of 2025

Golden Peace Infrastructure Pvt. Ltd.

Through Shri Rigveda Amonkar

C/o. Golden Peace Infrastructure Pvt.Ltd.

Hotel New Majestic,

Plot No.104/1A, Opp. Azad Bhavan,

Goa 403521.

... Petitioners.

V/s.

The State of Maharashtra

Through Marine Drive Police Station,

represented by

Senior Police Inspector.

2. HDFC Bank Limited,

Core Banking Division,

Through the Bank Manager

3. Harkere S. Nagashwaran

... Respondents.

Mr. Parag Rao, Sr. Advocate a/w. Ms. Tanvi Mahadik, Mr. Jay Suryavanshi, Ms. Megha Shelke i/b. Rahul S. Arote	Advocates for the Petitioners.
Mr. Devesh Sawant and Afsar Ansari i/b. Vivek Patil & Associates	Advocate for Respondent No.2- HDFC Bank.
Mr. Udayan Jain a/w. Asmita Maurya a/w. Anokhi Arora	Advocate for Respondent No.3.
Mrs. S.D. Shinde	APP for the State.

CORAM : S.M. MODAK, J

DATE : 31st July 2025.

P.C. :

Heard learned Advocate for the Petitioners and learned Advocate for Respondent No.2-HDFC Bank and learned Advocate for Respondent No.3.

2. Respondent No.3 filed two Criminal Misc. Applications bearing No. 3347/24 (Page-64) and 2137/24 (Page-68). On his complaint, Marine Drive Police registered an offence punishable under section 406,420 read with 34 of I.P.C. against in all three persons. They are one Pradeep Khanzode, Sandep Rane and one Vivek Nangaonkar. They are parties to these petitions. The allegation is first informant Nageshwran was acquainted with accused Pradeep Khanzode and believing him the first informant agreed to finance Shri Sandep Rane. He also issued cheque for Rs. 26,32,000/-. However the first informant learnt that on the basis of this cheque, money is credited in the account of one Vivek Nangaonkar. This money is not returned and hence he filed complaint with police.

3. During investigation, it was disclosed that the said Vivek Nangaonkar has transferred an amount of Rs. 21,75,000/- in the account of present petitioner maintained with HDFC Bank, Panjim

Branch. During investigation the police have freezed the said account of accused Vivek.

4. On this background, the first informant approached the Court of Additional Chief Judicial Magistrate, Esplanade, Mumbai for getting that amount. Both these applications were decided as per the common order dated 25th October 2024. HDFC Bank, Panjim Branch, Goa was directed **to defreeze** the account number mentioned therein and **transfer the amount** of Rs.21,75,000/- in the account of Respondent No.3- Harkere maintained in the HDFC Bank.

5. The Petitioner claims that the account which is freezed by putting a lien belongs to him and he was not heard by the trial Magistrate prior to transferring the amount from his account to the account of the first informant. They claim that there was justifiable reason for transfer of amount by accused Vivek to their account. They contend they run a amusement business in the State of Goa and co-accused Vivek was their customer and an amount of R.20,00,000/- was transferred by him for playing casino and casino chips were handed over to him. They contend it was pure business transaction. However they were not granted an opportunity of hearing.

6. Learned Advocate for Respondent No.3 tried his level best to point out to me how the claim of the his client is justified and how the trial court has rightly transferred the amount to his account.

7. Learned Advocate for Respondent No.3 tried to explain as to how his client was not aware that money is debited to his account and in turn transferred to the account of the Petitioner. He also pleaded that in fact the HDFC Bank was heard by the trial Magistrate prior to passing of the impugned order. In the sense he wants to suggest there was no need to hear the Petitioner.

8. I have read the order. One fact is undisputed. The present petitioner is not heard prior to passing of the order. Learned Magistrate observed :--

“moreover affidavit and say of Bank nowhere it reveals that concern company took objection regarding freezing amount”.

This Court is not making any observation about this finding. But it is a fact that HDFC Bank and present petitioner are two legal entities. They may be having same claim or different claims over the amount. If it is so, the prayer for return of amount cannot be decided without hearing persons who are going to be affected by the decision. So Petitioner is having the right of audience.

9. All the contentions of the parties are kept open. As on today, it is submitted that HDFC Bank has put lien on the amounts mentioned therein and copy of email sent by HDFC Bank to the Petitioner is on Page No.61. There is a lien for much more amount. Learned Advocate for HDFC Bank confirms it. It means no one can use this amount. Now it is for the trial Court to decide who are the

concerned persons to whom right of audience is to be granted.
Respondent No.3 to address the trial Court accordingly.

10. In view of that, order needs to be set aside and needs to be remanded for new hearing. Hence, following order is passed.

ORDER

- (i) The Writ Petitions are partly allowed.
- (ii) The order dated 25th October 2024 passed by the Court of Additional Chief Judicial Magistrate, Esplanade, Mumbai is set aside. The matter is remanded back to the trial Magistrate for fresh consideration.
- (iii) The trial Magistrate is directed to hear all the concerned persons including the present Petitioner and HDFC Bank.
- (iv) The rights and contentions of the parties are kept open and applications be decided as per the merits.
- (v) The statement made on behalf of the HDFC Bank that there is a lien to the concerned Bank account of the Petitioner is accepted.
- (vi) The HDFC Bank can act as per the order passed by the learned Magistrate.
- (vii) Let the Respondent No.3 to join the Petitioner as a party in those applications.
- (viii) All the parties are directed to appear before the trial Magistrate on 11th August 2025 without notice.

(ix) The Respondent No.3 being senior citizen, the trial Court is directed to decide the application as early as possible.

11. Both Writ Petitions stand disposed of.

(S.M. MODAK, J.)