

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 3966 OF 2024**

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Panoramic Universal Limited

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Ms. Vidhi Rathi i/b. Mr. Abhijeet Badar, for the Petitioner.
Mr. Yogesh M. Nakhwa, APP for the Respondent-State.
API Mr. Vinayak B. Desure, EOW, Mumbai- MPID

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

DATE : 24th June 2025.

P.C. :

1) Present Petition under Article 226 of the Constitution of India is filed by the Petitioner for quashing of C.C. No. 101623/2021 pending on the file of the learned Special Judge, (MPID Act), Mumbai, arising out of FIR No. 98 of 2017, dated 11/12/2017, registered with Economic Offences Wing, Mumbai, under Sections 406, 409, 420, 471 read with 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 ('M.P.I.D. Act').

2) It is an admitted fact on record that, after completion of the investigation, the Investigating Agency has submitted charge-sheet. In view

thereof, the Petitioner is having substantive alternate remedy by way of filing an application for discharge before the trial Court.

3) It is the settled position of law and as has been enumerated by a catena of decisions of the Hon'ble Supreme Court that, ordinarily the Court will not entertain the Petition under Article 226 or 227 of the Constitution of India, where the Petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Though no hurdle can be put against the exercise of the constitutional powers of the High Court, it is well recognized principle which gained judicial recognition that, the High Court should direct party to avail himself of such remedies, one or the other before he resorts to the constitutional remedy.

3.1) Reliance is placed on the following decisions :

- i) Thansingh Nathmal Vs. The Superintendent of Taxes, Dhubri & Ors., reported in AIR 1964 SC 1419.
- ii) A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors., reported in (2000) 7 SCC 695.
- iii) Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil, reported in (2010) 8 SCC 329.
- iv) Radhey Shyam & Anr. Vs. Chhabi Nath & Ors., reported in (2015) 5 SCC 423.
- v) Genpact India Private Limited Vs. Deputy Commissioner of Income-Tax & Anr., reported in (2019) 419 ITR 440 (SC).
- vi) Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. Vs. Tuticorin Educational Society & Ors., reported in (2019) 9 SCC 538.

vii) Magadh Sugar & Energy Ltd. Vs. State of Bihar & Ors.,
reported in 2021 SCC OnLine SC 801.

4) According to us, filing an application for discharge before the trial Court is not an onerous remedy and in fact an equally efficacious remedy. The Petitioner cannot be permitted to raise a specious plea calling upon this Court to adjudicate his innocence in a Petition under Article 226 of the Constitution of India. It is against the settled principles of law. At the same time, the Petitioner cannot be permitted to make the statutory provisions of the Code of Criminal Procedure otious, by directly approaching this Court under Article 226 of the Constitution of India.

5) In view of the above and by reserving the remedy of filing an application for discharge before the trial Court in favour of the Petitioner, Petition is disposed off.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)