

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2656 OF 2025
IN
CRIMINAL APPLICATION NO.642 OF 2017

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Dipti Sameer Phanasekar
@ Dipti Amit Chavan

...Applicant

V/s.

The State of Maharashtra

...Respondent

Ms.Sandhya A. Mailagir:-	Advocate for Applicant.
Ms.Sangita E. Phad:-	APP for Respondent – State.
Mr.Rahul Khandale – PSI:-	Naupada Police Station – Thane.

CORAM : S. M. MODAK, J.

DATE : 25th JULY 2025

P. C. :-

1. Heard learned Advocate for the Applicant. She is the Accused No.2 before the Court of Judicial Magistrate First Class – Thane. It was Regular Criminal Case No.1163 of 2017 for the offences punishable under Sections 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code, 1860 (“IPC”). Also heard learned APP.

2. The present Applicant and her husband **Sameer** (absconding accused) had obtained loan from HDB Financial Company Limited Satish Sangar – Order is modified as per order dated 6th August 2025

against mortgage of flat at Thane. Both the spouses owned that flat. An amount of Rs.56,50,000/- (Rupees Fifty Six Lakh Fifty Thousand) was disbursed by the Bank in the account of absconding Accused – Sameer. Some installments were paid. An amount of Rs.43,13,380/- (Rupees Forty Three Lakh Thirteen Thousand Three Hundred Eighty) was outstanding. Both the Accused have sold the mortgaged flat to non-residential Indian. The Bank was not taken into confidence. That is why the Manager of the Bank filed a complaint and an offence came to be registered. After the trial, the present Applicant was acquitted for the offences as per the judgment dated 22nd April 2025.

3. After the registration of the offence, the Police have arrested this Applicant. She was granted bail by the Court of Additional Sessions Judge – Thane vide the order dated 10th October 2017. One of the conditions of bail is to deposit Rs.50,00,000/- (Rupees Fifty Lakh) with the Investigating Officer.

4. On Criminal Application No.642 of 2017, this Court vide the order dated 21st June 2018 has modified the amount and **reduced it to Rs.10,00,000/- (Rupees Ten Lakh).** The amount is deposited in this Court. The copy of the demand draft is on Page No.18. Now the

Applicant is praying for refund of this amount. Just because the amount is deposited in this Court, this Court does not get jurisdiction to deal with her prayer for return of the amount. Strictly speaking, the amount deposited cannot be considered as an amount seized during investigation. If any movable or immovable property is seized during investigation, the Criminal Court gets jurisdiction to pass order for its return. It may be during pendency of the trial under Sections 451 (Section 497 of new Sanhita) and 457 (Section 503 of new Sanhita) of the old Code. **It is under Section 452 of Cr.P.C.** (Section 498 of new Sanhita) **at the conclusion of the trial.** While passing acquittal judgment, the learned Judge has not given any direction for refund of this amount. Rightly so, because no one has pointed out to the learned trial Court Judge that the amount of Rs.10,00,000/- (Rupees Ten Lakh) is deposited as per the order of this Court. **It is for the trial Court to decide this entitlement to get this amount of Rs.10,00,000/- (Rupees Ten Lakh).** The Application has to be made before the concerned Court of Magistrate.

5. With these directions, following order is passed:-

ORDER

(i) The Applicant is permitted to apply for return of

Satish Sangar – Order is modified as per order dated 6th August 2025

Rs.10,00,000/- (Rupees Ten Lakh) along with the interest, if any, before the Court of Judicial Magistrate First Class – Thane.

(ii) **The trial Magistrate is directed to decide that prayer after hearing the concerned parties.**

(iii) The Office is directed to transfer the amount of Rs.10,00,000/- (Rupees Ten Lakh) along with interest (if it is deposited as per the demand draft) to the Court of Judicial Magistrate First Class – Thane.

(iv) The disbursal of the amount be done as per the order passed by the trial Magistrate.

6. In view of the above terms, **the Interim Application stands disposed of.**

[S. M. MODAK, J.]