

MHKO010051002022



ORDER BELOW EXH.166 IN SPECIAL CASE NO.285/2022

This is an application filed by Sushant Bhanudas Mirajkar (accused No.12) for return of the cash amount of Rs.9,00,000/- consisting 73 currency notes of Rs.2,000/- and 1508 currency notes of Rs.500/-, u/s. 451/457 of Cr.P.C.

2. The applicant is prosecuted for the offences u/s. 420, 406, 409 r/w.34 of IPC and u/s. 3,4 and 6 of The Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999(MPID Act). The aforesaid cash amount has been seized during investigation. An amount more than 300 Corers has been involved in this crime.

3. Heard Shri. V.M.Khade, the learned advocate for the applicant and Shri. A.A.Peerzade, the learned APP. The prosecution has resisted this application by say on the ground that the cash amount seized in this crime is necessary to be preserved for just decision of the case and to ensure recovery of the amounts invested by the depositors. The learned advocate for the applicant submits that the currency of notes of Rs.2,000/- would be demonitized with effect from 1/10/2023 and in such circumstance, the applicant would be put in great loss if the said cash amount is not returned to the applicant. He relies upon the judgment in *Sunderbhai Desai Vs. State of Gujrat [AIR 2003 SC 638]* and *Nagesh Ahire Vs. State of Maharashtra [2015 ALL MR (Cri.)2811]*.

4. Considering the nature of offences, section 4 of MPID Act, provides for attachment of properties on default of return of deposits. The seized cash amount is subject for attachment. The Investigating Officer can take suitable steps regarding the currency notes of Rs.2,000/- as per the

Government circular to that effect and the currency can be got changed if the same is not required to be preserved for the trial. Therefore, this is not a just ground on which the said cash amount can be returned to the applicant. The observations in the cases cited by the learned advocate (Supra) will not be applied to the case in hand which provides attachment of such cash amount for recovery of the amount of the depositors. The application is devoid of merit and is liable to be rejected.

ORDER

1. The application is rejected.
2. The Investigating Officer shall take suitable steps in respect of seized currency notes of Rs.2,000/- to change the currency if not required for trial.

Date: 25/09/2023.

(**S.R. Salunkhe**)
Special Judge (MPID),
Kolhapur.