

MHST190043492023



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WAI
SPECIAL MPID CASE NO. 45 OF 2023

1) Mandarani Shivaji Dhamdhare

2) Shivaji Tukaram Dhamdhare

... Applicants

..Versus..

State of Maharashtra
through A.G.P. & APP. Wai
Police Station, Khandala.

... Non-applicant

ORDER BELOW EXH.21

(Passed on this 26th day of November 2025)

1] Instant bail application (**Exh.21**) has been filed under Section 436-A of Criminal Procedure Code (“Cr.PC.”) on the ground that accused Mandarani Shivaji Dhamdhare and Shivaji Tukaram Dhamdhare have been prosecuted for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code and under Sections 3 & 4 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 [for short “MPID Act”]. Both accused have undergone maximum period of imprisonment provided for above mentioned offences. Therefore, it is implored for being released them on regular bail.

2] Learned APP has filed say vide **Exh.24** and strenuously

opposed bail application, on main ground that charge has been framed against accused. There are number of cases which are pending against accused, therefore delay has been caused by them. These two accused persons have been convicted by Special Court, Satara and Special Court, Baramati. Therefore, there is no legal ground to grant bail. Lastly, it is requested to reject the bail application.

3] The learned APP submitted that both these accused persons have been convicted in **MPID Case No.2/2019** by **Special Court of Baramati**, on **16.01.2025** and in **MPID Case No. 1/2019** on **25.07.2023**. Similarly, both these accused persons have been convicted in **MPID Case No.138/2020**, by **Special Court, Satara** on **29.08.2023**. Maximum punishment provided to Section 409 of I.P.C. is up to **life imprisonment**. Therefore, it cannot be stated that period of half punishment has been spent by both accused in jail. There is no legal ground to allow the bail application. Prosecution is ready to try the case expeditiously. As such, lastly it is requested to reject the bail application.

4] Against this, the learned Counsel of both accused urged that both accused persons are in jail since long considerable period, inasmuch as they were arrested on **06.12.2021**. He further pointed out that half of the period of punishment has been already over and accused persons are languishing in Court. This is appropriate stage to release accused on bail. The reason is being that there are total

36 witnesses of prosecution side. Therefore, trial is not likely to be concluded within short period. Therefore, it is implored to grant bail.

5] The main ground raised by learned Counsel of both accused that in “Tamil Nadu Protection of Interest of Depositors (In Financial Establishments) Act, 1999” (For short “TPID Act”) and “Karnataka Protection of Interest of Depositors (In Financial Establishments) Act, 1999” (For short “KPID Act”), there are specific provisions which specifically grants the power to Special Court to try any other offences under the Cr.P.C., 1973 along with provisions of TPID Act and KPID Act. But Section 13(1) of MPID Act limits the designated Court to try only the offences under section 3 of MPID Act and as per Section 13(2) of MPID Act, Designated Court is “a Magistrate”, but does not expand the jurisdiction of offences enumerated under MPID Act. Consequently, this Court cannot club the charges of the offences of MPID Act and of I.P.C. Act in the said case. Therefore, on the basis of these grounds, it is implored to grant bail to these accused persons.

6] The learned Counsel of accused has placed reliance on following citations :

A) **Javeed Khan s/o Ajij Khan & other -Vs.- State of Maharashtra, (Cri. Appeal No.702/2023) decided by Hon’ble Bombay High Court (D.B.) dated 1st December, 2023.** Facts appearing in such case were that, discharge application filed by accused under Section 227 of

Criminal Procedure Code was rejected by Special Court (MPID) Act. Accused was intending to challenge the said order by way of appeal under section 11 of MPID Act. Hon'ble Bombay High Court (D.B.) was to decide preliminary objection on the point of maintainability of appeal. *Hon'ble Bombay High Court has observed that, "..... Here, we would also like to mention that though the Designated Court should be the Court of District and Sessions Judge, but for the trial of a case under MPID Act he has to follow the procedure laid down for trial of warrant cases by Magistrate and not that of the trial for a Sessions case. Section 13(2) of the MPID Act makes it further clear that the provisions of the Code of Criminal Procedure, 1973, shall so far as may be, apply to the proceedings before a Designated Court and for the purposes of the said provisions a Designated Court shall be deemed to be a Magistrate. When such an application though can be said to be under Section 239 of the Code of Criminal Procedure, was in pursuant to Section 13(1) of the MPID Act was before the Designated Court here, then the impugned order passed by the Designated Court is "an order of the Designated Court" as contemplated under Section 11 of the MPID Act. Hence, we find that the appeal is maintainable. The preliminary objection is, therefore, rejected."*

B] Kartik Mohan Prasad -Vs.- State of Maharashtra & others, Criminal Writ Petition No. 2421 of 2023, decided by Bombay High Court (D.B.), decided on 18th July, 2024. Its para no.20 is reproduced as under : -

"20. Having withdrawn his other prayers as noted earlier, the Petitioner now urges the Court to consider restoring his liberty after having undergone seven and half years of incarceration. Considering the offences charged it is clear that, even if he is convicted and sentenced to maximum tenure, the Petitioner has already undergone maximum punishment prescribed under the MPID Act and Section 420

of the IPC. Admittedly the sole remaining section 409 IPC prescribes a maximum sentence of life. However, the same provision vests the Court with a discretion to sentence the accused to a term which may extend to ten years and fine instead of life sentence. Under Section 409 of the I.P.C. minimum sentence is not prescribed. Be that as it may, it will be appropriate to leave this issue to be decided by the Designated Court in the pending trial. We are thus of the considered view that since the Petitioner has already undergone the maximum sentence under the MPID Act and Section 420 of the IPC as levelled against him, condemning him to further incarceration is a violation of his right to life and liberty under Article 21 of the Constitution of India.”

7] The learned APP has submitted that these two accused persons have been convicted for same offences of MPID Act and I.P.C. in different cases, tried at Special Court of Baramati (MPID Case No.2/2019) & (MPID Case No.1/2019) and at Special Court, Satara (MPID Case No.138/2020). They have filed copies of their operative orders. Learned APP further submitted that said material fact has been suppressed by applicants. Therefore, on this alone count also, bail application is liable to be rejected.

8] Applicants have not denied the fact that they have been convicted in earlier cases instituted for the offences punishable under Section 3 of M.P.I.D. Act and Section 420 of I.P.C. in above mentioned case. But these material facts have not been disclosed in present bail application and same has been suppressed deliberately only in order to seek relief of bail. Alone on this ground, bail application is liable to be rejected.

9] The punishment provided to section 409 of I.P.C. is up to life

imprisonment. Record shows that allegations made against both accused persons is about defalcation of amount of Rs.1,02,94,470/-. As both accused are previously convicted in same type of crimes, therefore in such scenario, Section 436-A of Criminal Procedure Code is not applicable to them. It is also noticed that in various courts, various cases have been pending against both accused persons. Therefore, it is not desirable to grant bail to both the accused persons. As such, for above stated grounds, bail application is liable to be rejected.

ORDER

Bail application (**Exh.21**) stands rejected.

Wai
Date: 26.11.2025

(R.N.Mehare)
Judge, Special Court,
Wai