



ORDER BELOW EXH.56 IN RCC No.344/2022.

1. Applicant i.e. accused No. 05- Sambhaji Shivaji Pawar filed present application for seeking interim custody of fix-deposit receipts, bank-passbooks, cheque-books, money lending license, money lending books (As per rule 18), cheques of different debtors, passport and cash amount of Rs.1,08,100/- (More particularly described in para No. 01 of the application as 01 to 51) which was seized in crime No.866/2021, U/Sec. 392, 504, 506 r.w.34 of the Indian Penal Code and U/Sec. 39 and 45 of the Maharashtra Money Lending(Regulations) Act, by police station Islampur, Tal. Walwa, Dist. Sangli.

2. It is the contention of applicant that, during investigation police seized above documents and cash from him. He is having valid license of money lending. For his business of money lending above documents are necessary. He also contended that, police seized his fix-deposit receipts, bank-passbooks and cheque-books. Said documents are necessary for his daily business. He further contended that, police also seized cash amount of Rs.1,08,100/-, he is the owner of said cash. Hence, at last, he prayed for interim custody of the above cash amount on certain conditions.

3. The investigating officer filed his say at Exh. 68 and raised objection to the present application. The learned APP filed her say and submitted that, the offence is economical in nature. During trial seized

above documents and money are required. Said are material piece of evidence. Considering the nature of offence, she prayed for rejection of application.

4. I have gone through the record. I heard the arguments of both sides. The following points arise for my determination. I give my findings and reasons as under:

Sr. No.	Points	Findings
1.	Whether the applicant i.e. accused no.05, is entitled for interim custody of documents and cash mentioned in application ?	Partly Affirmative.
2.	What order ?	Application is partly allowed.

REASONS

AS TO POINT NO.1

5. I heard learned counsel appearing on behalf of applicant and learned A.P.P. Perused the application, documents placed on record and the entire charge-sheet. In present case the accused persons are charge-sheeted for the offence punishable under section 392, 504, 506, r/w. 34 of the Indian Penal Code and section 39 and 45 of the Maharashtra Money Lending(Regulations) Act.

6. During investigation, the investigation officer seized above mentioned documents and cash from applicant i.e. accused No.5 by way

of seizure panchanama dated 24.12.2021. The investigation officer seized fix-deposit receipts, bank-passbooks, cheque-books, money lending license and passport of the applicant i.e. accused No.5. Said documents are the personal documents of the applicant i.e. accused No.5. Considering the nature of offence, it is safely said that, those documents have no concerned with the present crime. In such circumstances, this court find no impediment to hand over interim custody of documents i.e. fix-deposit receipts, bank-passbooks, cheque-books, money lending license and passport (Documents mentioned at Serial No. 01 to 32, 49 and 50 in para No. 01 of the application) in favour for the applicant i.e. accused No.5.

7. So far as other seized documents i.e. money lending books (As per rule 18), cheques of different debtors and cash are concerned, the applicant i.e. accused No.5 submitted that, said documents and cash are necessary for his money lending business. Here it is necessary to state that, there are allegations against the applicant i.e. accused No.5 that, he illegally obtained and demanded excess interest to the debtor and to recovery of debt amount he molested and threatened the debtor. Hence, to prove said allegations the above documents and cash are necessary during trial. Said documents and cash are the material evidence against the applicant i.e. accused No.5. Hence, considering said fact the applicant i.e. accused No.5 is not entitled for the interim custody of money lending books (As per rule 18), cheques of different debtors and cash (Documents mentioned at Serial No. 33 to 48 and 5` in para No. 01 of the application).

8. In view of above discussion, this court hold that, the applicant i.e. accused No.5 is entitled for interim custody of documents i.e. fix-

deposit receipts, bank-passbooks, cheque-books, money lending license and passport (Documents mentioned at Serial No. 01 to 32, 49 and 50 in para No. 01 of the application) only. Accordingly, I answer point no. 1 in partly affirmative.

AS TO POINT NO.2 -

9. In view of my finding to point no.1, the application is partly allowed. Accordingly, I pass the following order;

ORDER

1. Application is partly allowed.
2. The in-charge of police station, Islampur, Tal. Walwa, Dist.Sangli is hereby directed to hand over interim custody of documents i.e. fix-deposit receipts, bank-passbooks, cheque-books, money lending license and passport (Documents mentioned at Serial No. 01 to 32, 49 and 50 in para No. 01 of the application) only, to the applicant i.e. accused No.5, on his executing indemnity bond of Rs.1,00,000/- (Rupees One Lakh only).
3. The applicant i.e. accused No.5 is directed to produce the seized muddemal as and when required by this Court.
5. The in-charge of police station, Islampur, Tal. Walwa, Dist.Sangli, is directed to prepare detail panchanama, and to take colour photographs in respect of release of the above seized muddemal and hand over the custody of the above seized muddemal to the applicant i.e. accused No.5.
6. The in-charge of police station, Islampur, Tal. Walwa, Dist.Sangli, is directed to take photocopy of seized documents i.e. fix-deposit receipts, bank-passbooks, cheque-books, money lending license and passport (Documents mentioned at Serial No. 01 to 32, 49 and 50 in para No. 01 of the application) before handing over to the applicant i.e. accused No.5.
7. Indemnity Bond be executed before the in-charge of police station,

Islampur, Tal. Walwa, Dist.Sangli.

8. The in-charge of police station, Islampur, Tal. Walwa, Dist.Sangli, is directed to submit panchanama, photographs, indemnity bond and photocopy, in RCC No. 344/2022, without fail.
9. Copy of this order be given to the concerned police station for information and for further necessary steps.

Dated:- 20.09.2023.

(Kamaljeet M. Chandaliya)
5th Judicial Magistrate F.C,
Islampur.