

MHCC020143912016



BEFORE THE DESIGNATED COURT UNDER M. P. I. D. ACT
CITY CIVIL & SESSIONS COURT, Gr. BOMBAY.

COMMON ORDER

BELOW EXH.1-A

IN

MPID SPL. CASE NO.18/2016

The State of Maharashtra
(through Competent Authority
appointed under MPID Act)

..Applicant.

V/s.

Deepak Sudhakar Shivalkar.

..Respondent/accused

BELOW EXH.1-C

IN

MPID SPL. CASE NO.18/2016

Deepak Sudhakar Shivalkar.

..Applicant/accused

V/s.

The State of Maharashtra
(through Vikroli police station,
Mumbai)

..Respondent

Appearance :-

Ld. Adv. Mrs. Chaitrali Panshikar a/w Mr.A.J. Chavan for State/ Competent Authority.

Ld. Adv. Mr. Bali for accused.

**CORAM : HHJ SHRI N.G. SHUKLA,
ADDITIONAL SESSIONS JUDGE,
COURT ROOM No.20.**

DATED : 24/04/2026.

COMMON ORDER*(pronounced in open Court)*

1. Application Exh.1A is filed by the Competent Authority u/s.5(3) of MPID Act for making the order of attachment absolute and the objection Exh.1C is filed by accused u/s.7 of MPID Act for releasing the attachment of the below mentioned property:

“Flat/room no.1317 on ground floor, Building no.54, Shivsagar Co-operative Housing Society Ltd., Kannamwar Nagar No.1, Vikroli (East), Mumbai – 400 083.” (hereinafter referred to as “aforesaid flat/ property”).

2. Ld APP filed reply Exh.1/C/R to object Exh.1C and opposed the same.

3. I have heard Ld APP for the prosecution and Ld. Adv. Mr. Bali for objectionist/accused.

4. It is a case of the prosecution that the accused had misrepresented to various investors and collected investments under various schemes and committed fraudulent default in not giving return benefit as assured to the depositors. Hence, Crime no.172/2016 came to be registered against the accused. After investigation in the same crime, the competent authority is appointed. The State Government has attached the aforesaid property of the accused vide order/ Notification dated 13.4.2023 u/s.4 of MPID Act.

5. Ld. Advocate for the accused submitted that the accused was a tenant in the old room in building no.54. Accused and other tenants given the building for redevelopment and the aforesaid property was received in redevelopment to the accused. Ld Advocate relied on a Sale Deed in respect

of sale of the aforesaid room by the builder on 19th March, 1985. It is argued that the period of crime is preceded by 3 to 4 years of 2016. FIR was registered in the year 2016. The aforesaid property is not acquired by money of the depositors. Therefore, Ld Advocate prayed that the attachment of the property vide Notification dated 13.4.2023 is illegal and not sustainable. Hence, Ld Advocate prayed to release the attachment of the aforesaid property.

6. Ld APP submitted that, prior to issue of order of attachment, the Shivsahayadri Sahakari Patpedhi Ltd. had filed a M.A. No.1587/2018 seeking permission to take possession of the aforesaid room from the accused for recovery of its dues. Said M.A. is allowed by the Predecessor in office of this Court with condition that excess amount than recovery of Patpedhi, be deposited in court. Now, today the Patpedhi has filed pursis seeking permission to deposit Rs. 43,97,061/- by way of Demand Draft in the court. Hence, it is submitted that, appropriate order be passed.

7. I have considered the submissions and perused the record. It is not in dispute that, the accused was a tenant in the old room of building no.54 and in the redevelopment, he received the aforesaid property vide sale deed dated 19.3.1985. The period of crime is 3 to 4 years before 2016 at the time crime is registered in 2016. Thus, it is clear that the aforesaid room was not acquired by accused by money of the depositors. Similarly, it is observed in the order in MA 1587/2018 while permitting the Society to take possession of the aforesaid room. Thus, the property is not falling in the first category of Sec.4 of MPID Act. It is a settled position of law that untainted property cannot be attached u/s.4 of MPID Act. Reliance can be placed on the ruling on **Ravindra Shah v/s. State of Maharashtra and ors.** (Special Leave petition (Cr.M.P.) No.53044 of 2023) @ Diary No(s)

10560/2023 dated 17.3.2023 (SC).

8. Apart from this, the property was mortgaged with the Shivsahayadri Sahakari Patpedhi Ltd. and this Court has permitted the Patpedhi to take its possession for recovery of its dues. The property was not acquired by money of the depositors. Therefore, I find that attachment is illegal and not sustainable. Today, Patpedhi has filed pursis seeking permission to deposit Rs. 43,97,061/- by way of Demand Draft in the court, which is sale proceeds of sale of aforesaid property as per permission given vide order in MA no. 1587 of 2018. Hence the application Exh. 1A becomes infructuous. Exh. 1C deserves to be allowed technically because notification of release of attachment in gazette needs to be published as the property is already sold. In the result, I pass the following order:

ORDER

1. Objection Exh.1C filed by the accused is allowed.
2. Attachment of the aforesaid property i.e. "Flat/room no.1317 on ground floor, Building no. 54, Shivsagar Co-operative Housing Society Ltd., Kannamwar Nagar No.1, Vikroli (East), Mumbai-400 083", is hereby released.
3. Competent Authority is directed to take steps for release of the attachment within three weeks from this order.
4. Application Exh.1A filed by the Competent Authority is rejected and accordingly disposed of.



(N.G. SHUKLA)

Designated Judge under MPID Act,
City Civil & Sessions Court,
Gr. Bombay([C.R.NO.20](#)).

Dt.24.4.2026

Dictated (directly on computer) on 24.4.2026
Draft given to HHJ (through google-drive) on 24.4.2026
Signed by HHJ on 24.4.2026

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CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED
JUDGMENT/ORDER.

Name of Steno : N.V Ubale (Stenographer (Gr.1))
Upload date : 24.4.2026

Name of the Judge	H.H.THE ADDL. SESSIONS JUDGE SHRI N. G. SHUKLA (C.R.No.20)
Date of Pronouncement of Order	24.4.2026
Order signed by P.O. on	24.4.2026
Order uploaded on	24.4.2026