

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**37 BAIL APPLICATION NO. 2259 OF 2025
WITH
BAIL APPLICATION NO. 65 OF 2026**

SHAHINATH VIKRAM PARBHANE
VERSUS
THE STATE OF MAHARASHTRA

38 BAIL APPLICATION NO. 2336 OF 2025

DILIP TATYABHAU KORADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

**WITH
CRIMINAL APPLICATION NO. 4499 OF 2025
IN BA/2336/2025**

45 BAIL APPLICATION NO. 214 OF 2026

ANIRUDDHA MUKUND DHAS
VERSUS
THE STATE OF MAHARASHTRA

48 BAIL APPLICATION NO. 246 OF 2026

ARCHANA SURESH KUTE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for applicant : Mr. S.G. Ladda (2259/2025)
Advocate for applicant : Mr. S.E. Shekade (65/2026)
Advocate for applicant : Mr. N.V. Gaware (2336/2025)
Advocate for applicant : Mr. A.B. Kale h/f. Mr. V.S. Dahihande (214/2026)
Advocate for applicant : Mr. S.S. Solanke (246/2026)
APP for the respondent – State : Mr. A.R. Kale, Addl. P.P.,
Mrs. P.V. Diggikar, Mr. G.O. Wattamwar and Mr. C.V. Bhadane

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CORAM : SHAILESH P. BRAHME, J.

DATE : 30 MARCH 2026

ORDER :

The respondents in all the applications have raised preliminary objection to the maintainability of the applications in the wake of remedy of Appeal provided under section 11 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. (hereinafter referred to as “*MPID Act*”, for the sake of brevity and convenience). Hence, the preliminary objection is dealt with by this common order.

2. Respondents submit that there is statutory remedy of Appeal for the aggrieved person against denial of bail by the designated Court, provided under section 11 of the MPID Act. There is exclusion of the remedy provided by general enactment i.e. Code of Criminal Procedure (hereinafter referred to as “**Cr.PC**”) or Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as “**BNSS**”) in this regard. The order of rejection of bail was passed by the designated Court which is susceptible to the Appeal like any other order passed under section 3 to 10 of the MPID Act. It is submitted that the remedy of Appeal provided under the MPID Act has over-riding effect over any other provision or remedy by implication of Section 14. MPID Act being a special statute, provisions of section 11 would prevail over the general law.

3. Per contra, counsel appearing for the applicants submit that the applicants have not invoked an appellate remedy but they are invoking the concurrent jurisdiction under section 483 of the BNS. No remedy of Appeal is provided under the MPID Act against denial of bail. The remedy under section 11 is available against the orders passed under section 3 to 10 which are special measures provided to safeguard the interests of the depositors. In the absence of exclusion of provisions of section 483 of the BNS expressly or impliedly, Section 11 of the MPID Act cannot be resorted to. There is no inconsistency in between the MPID Act and the general Act to the extent of remedy of bail. It is submitted that the purport and the object of the MPID Act is to facilitate recovery and safeguard the interest of the depositors. Hence, the remedy of Appeal under Section 11 is provided.

4. It is trite law that the remedy of Appeal would be provided by the statute. Its nature and the contours would be provided by the legislature. It is impermissible to read anything into it which is against the purpose and object of the enactment. MPID Act is enacted in the public interest to curb any unscrupulous activities of the financial establishments in the State. It is to safeguard the interest of the investors and to protect them from grabbing of their money. In consonance with the object of the MPID Act, special provisions are made in section 3 to 14 of the Act. The provisions of attachment of the

properties, penalizing fraudulent default by the financial institutions, appointment of competent authority, powers of attachment, attachment of property of *mala fide* transferee, security in lieu of attachment and administration of the property attached are the special features requiring passing of necessary orders by the competent authority or the designated Courts. Those orders are susceptible to the Appeal provided under Section 11.

5. Following is the relevant provision :

*“Section 11. **Appeal.**— Any person including the Competent Authority, if aggrieved by an order of the Designated Court, may appeal to the High Court within sixty days from the date of the order.”*

6. The powers and procedure is provided as follows :-

*“Section 13. **Procedure and powers of Designated Court regarding offences.**— (1) The Designated Court may take cognizance of the offence without the accused being committed to it for trial and, in trying the accused person, shall follow the procedure prescribed in the Code of Criminal Procedure, 1973 (2 of 1974), for the trial of warrant cases by Magistrates.*

(2) The provision of the Code of Criminal Procedure, 1973 (2 of 1974), 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.”

7. No provision in the MPID Act is pointed to exclude the provisions of CrPC or BNSS. On the contrary, provisions of general criminal law insofar enlargement on bail is concerned, is made expressly applicable by Section 13 as quoted above. No provision is

shown by the respondents to infer that any special procedure is prescribed for maintaining applications for bail or pre-arrest bail or the remedy is provided against rejection thereof.

8. If the legislature intends to provide remedy against grant or rejection of bail, it is provided expressly. A reference can be made to section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which provides remedy of Appeal against granting or refusing of bail under section (2) thereof. Legislature would have provided such a remedy expressly in the MPID Act.

9. The applicants are invoking concurrent jurisdiction by approaching this Court under section 483 of BNSS after rejections of their plea by the designated Court. It is not an appellate jurisdiction. They approached the designated Court seeking bail as a matter of discipline and propriety. While dealing with the application for bail, High Court can undertake independent objective scrutiny. The findings recorded by the Designated Court need not be set aside or confirmed.

10. The over-riding effect of Section 14 is wrongly interpreted by the counsel appearing for the respondents. The over-riding effect comes into picture if it is demonstrated that there is inconsistency in the provisions made by the MPID Act with the provisions contained in

general law i.e. Cr.P.C. or BNSS. The special statute does not provide for any remedy of bail. For that purpose, one has to fall back to general criminal law i.e. Cr.P.C. Or BNSS. The submission that the special statute has over-riding effect for the matters of bail *sans* merit.

11. I am of the considered view that only remedy for the aggrieved persons against denial of bail is to invoke the concurrent jurisdiction under section 483 BNSS and under section 439 of CrPC by approaching the High Court. Remedy of Appeal provided under Section 11 is restricted to the orders passed by the designated Court in respect of the matters covered by Section 3 to 10 of the MPID Act.

12. Learned Addl. P.P. Mr. Kale has relied on the judgment of learned Single Judge in *Milind Satish Sawant V. State of Maharashtra (Bail Application No.1175 of 2025 – Judgment dated 04.09.2025)*, *The State of Maharashtra V. Anil Kohil (Writ Petition No. 3396 of 2019 – Judgment dated 09.11.2020)* and judgment of Supreme Court in *Sonal Hemant Joshi and others V. State of Maharashtra and others; (2012) 10 SCC 601*. The issue germane in the present matter was not fallen for consideration in those matters. The validity of any provision of the MPID Act is not under consideration in the present case. Similar is the case with judgment of learned Single Judge of Allahabad High Court in the matter of *Chandra Raj @ Chandra V. State of U.P.; (2024) 8 ILRA*

15. These judgments would not enure to the benefit of the respondents.

13. Respondents have also relied on the judgment of the Supreme Court in *Maya Mathew V. State of Kerala and others; 2010(4) SCC 498* which lays down rules of interpretation when a subject is governed by two sets of rules. The ratio laid down therein cannot be disputed but has no application to the present matters. It is not a case that the provisions of bail and remedy against the rejection is provided by the MPID Act as well as CrPC or BNSS. The judgment will be of no avail to the respondents.

14. Learned counsel Mr. Nitin Gaware has relied upon *State of Gujarat V. Salimbhai Abdulgaffar Shaikh and others; (2003) 8 SCC 50*, to buttress that the remedy of grant of bail provided under section 439 of Cr.P.C. has not been taken away by the MPID Act. The submission is well founded because of the following observations :-

“12. Shri Amarendra Sharan, learned Senior Counsel for the respondents has submitted that the power of the High Court to grant bail under Section 439 CrPC has not been taken away by POTA and consequently, the learned Single Judge had the jurisdiction to grant bail to the respondents in exercise of the power conferred by the aforesaid provision. The learned counsel has laid great emphasis upon Section 49 of POTA, especially sub-section (5) thereof and has submitted that in view of the language used in this section, the power conferred upon the Court of Session and the High Court under Section 439 will remain intact. It has been urged that if the intention of the legislature was to make the provisions of Section 439 of the Code inapplicable in relation to offences under POTA, it would have made a provision similar to sub-section (5) of Section 49

which expressly excludes the applicability of Section 438 CrPC. We are unable to accept the contention raised by the learned counsel for the respondents. It is a well-settled principle that the intention of the legislature must be found by reading the statute as a whole. Every clause of a statute should be construed with reference to the context and other clauses of the Act, so as, as far as possible, to make a consistent enactment of the whole statute. It is also the duty of the court to find out the true intention of the legislature and to ascertain the purpose of the statute and give full meaning to the same. The different provisions in the statute should not be interpreted in the abstract but should be construed keeping in mind the whole enactment and the dominant purpose that it may express. Section 49 cannot be read in isolation, but must be read keeping in mind the scope of Section 34 whereunder an accused can obtain bail from the High Court by preferring an appeal against the order of the Special Court refusing bail. In view of this specific provision, it will not be proper to interpret Section 49 in the manner suggested by the learned counsel for the respondents. In A.R. Antulay v. Ramdas Srinivas Nayak [(1984) 2 SCC 500 : 1984 SCC (Cri) 277] the scope of special Act making provision for creation of a Special Court for dealing with offences thereunder and the application of the Code of Criminal Procedure in such circumstances has been considered and it has been held that the procedure in CrPC gets modified by reason of a special provision in a special enactment.”

15. Further reliance is placed on the judgment of *Surendra P. Gadling V. State of Maharashtra; 2021 SCC OnLine Bom 1726*. The Division Bench dealt with similar issue in the context of National Investigation Agency Act, 2008 (“*the NIA Act*”) and the Cr.P.C. By specific provision under section 21(4) of the NIA Act, the remedy of Appeal is provided. The issue which was germane is quoted as follows:-

“13. Having concluded on the point of applicability of NIA Act, the question remains is as to whether an application under Section 439 of the Code of Criminal Procedure can be filed by the applicant when the applicant has remedy of statutory appeal under Section 21(4) of NIA act.”

It is answered as follows :-

“17. We are therefore of the view that the Court trying offences under second Schedule of the NIA Act being the Special Court as contemplated by Section 22 of the NIA Act, the person aggrieved by an order of refusing bail is required to file appeal under Section 21(4) of the NIA Act and the application under Section 439 of the Code of Criminal Procedure is not maintainable before the High Court.”

In the present case, in the absence of express provision, the remedy of Appeal under section 11 cannot be adopted against rejection of application for bail.

16. Advocate Mr. Gaware has further relied on judgment of *Ado India (P) Ltd. V. ATS Housing (P) Ltd.; 2024 SCC OnLine Del 8736, Asmita Agrawal V. Enforcement Directorate; 2001 SCC OnLine Del 1254*, to buttress that when special enactment is silent on certain procedural aspect, then general law would be invoked. The ratio laid down therein is a trite law and can be made applicable to the case at hand.

17. For the reasons stated above, the preliminary objection raised by the respondents shall stand over-ruled. Applications are to be dealt with on their merits separately.

18. List Bail Application No. 2259 of 2025 with connected Application on Board on 15.04.2026. List Bail Application No.2336 of 2025 with connected Application on Board on 16.04.2026. List Bail Application No. 214 of 2026 on Board on 17.04.2026. List Bail Application No. 246 of 2026 on Board on 17.04.2026.

[SHAILESH P. BRAHME]
JUDGE

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