IN THE HON'BLE HIGH COURT OF JUDICATURE AT MUMBAI

CRIMINAL APPELLATE JURISDICTION

CRIMINAL PUBLIC INTEREST LITIGATION ______ OF 2019

IN THE MATTER OF

SAROSH DAMANIA
[redacted]. ..... Petitioner

Vs

1. Union of India
Through the Secretary,
Ministry of Finance,
Through Central Govt. Advocates,
Aaykar Bhavan Annexe Bldg,
New Marine Lines, Mumbai – 400021.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT MUMBAI

CRIMINAL APPELLATE JURISDICTION

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SAROSH DAMANIA ... Petitioner

Versus

UNION OF INDIA & ORS. ... Respondent

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Advocate for Petitioner

A

IN THE HON'BLE HIGH COURT OF JUDICATURE AT MUMBAI

CRIMINAL APPELLATE JURISDICTION

CRIMINAL PUBLIC INTEREST LITIGATION ______ OF 2019

SAROSH DAMANIA ... Petitioner

Versus

UNION OF INDIA & ORS. ... Respondent

SYNOPSIS

By the instant Criminal Public Interest Petition, the Petitioner seeks from this Hon'ble Court, urgent direction to Learned PMLA Court, Mumbai and Ld. ACMM, 47th Court, Esplanade, Mumbai and various other Courts wherein proceedings related to the subject matter of this Petition are pending, to refrain from proceeding with any Bail Applications of the Accused persons in those proceedings.

The Petitioner also seeks from this Hon'ble Court necessary directions for constitution of a Committee headed by any Hon'ble Retired Judge of the Hon'ble Supreme Court or this Hon'ble Court, so as to facilitate speedy recovery of the dues of the of the Respondent PMC Bank and directions to the concerned law enforcement agencies, investigating the subject matter of the present petition, to not create hurdles for the same.

The Petitioner seeks directions to the Respondents to fully cooperate with the said committee so as to facilitate the recovery process.

LIST OF DATES AND EVENTS

Sr. No.	Date	Events
1.	2008 to 2019	Various officials of the Respondent Bank and other unknown person's alongwith promoters and executives of Housing Development and Infrastructure Limited (HDIL) committed various acts of criminal conspiracy by disbursing loans in a fraudulent manner and falsified the account books.
2.	30.09.2019	EOW, Mumbai Police registered FIR no. 375 of 2019 against various accused persons including amongst others against Respondent Nos. 4 and 5, for commission of offences punishable under Sections 120B read with Section/s 406, 409, 420, 465, 467 and 471 of IPC, 1860.
3.	03.10.2019	Enforcement Directorate registers ECIR/MBZO-I/09/2019 to investigate the offence of Money Laundering arising out of the offences mentioned in the above mentioned FIR.
4.	18.10.2019	Respondent No.4 and 5 arrested by Enforcement Directorate.
5.	Oct – Nov, 2019	Thousands of Account Holders of the PMC Bank and members of public were force to suffer undue and immense hardships because of the restrictions of cash withdrawals imposed on PMC Bank on account of alleged offences committed by Various Accused persons in the above mentioned FIR.

B

6.		With no likelihood of early resolution to the account holder plight and the attitude of Law Enforcement agencies in getting entangled in procedural delays there is strong possibility of the account holders may not get access to their own hard earned money trapped in the PMC Bank.
		Hence, this petition

POINTS TO BE URGED:-

1. Whether the petitioner as made out his case for invoking writ jurisdiction of this Hon'ble Court qua the prayers mentioned in this petition.

AUTHORITIES TO BE CITED:-

At the time of hearing with the leave of the Court.

ACTS TO BE CITED:-

1. Constitution of India.
2. Criminal Procedure Code
3. Indian Penal Code
4. Any other Act

2. Sr, Inspector of Police,
   Economic Offence Wing,
   Banking II, C.P. Office Compound,
   3rd Floor, new Police Commissioner Office Bldg.,
   Near Crawford Market,
   Mumbai - 400001.

3. Assistant Director,
   Directorate of Enforcement,
   Zonal Office-I, 4th Floor,
   Kaiser-I-Hind Building,
   Currimbhoy Road, Ballard Estate,
   Mumbai – 400001

4. Rakesh Wadhawan
   S/o Sh. Kuldeep Singh Wadhawan
   Aged about 68 Years,
   Director of –
   Housing Development and Infrastructure Limited (HDIL),
   R/o Wadhawan House,
   Plot No. 32/A, Union Park,
   Road No. 5, Opp. J.B. Petit School,
   Bandra (West), Mumbai - 400050

5. Sarang Wadhawan
   S/o Sh. Rakesh Kumar Wadhawan
   Aged about 42 Years,
   Director of –
   Housing Development and Infrastructure Limited (HDIL),
   R/o Wadhawan House,
   Plot No. 32/A, Union Park,
   Road No. 5, Opp. J.B. Petit School,
   Bandra (West), Mumbai - 400050

6. PMC Co-Operative Bank Ltd,
   Office No. 4 & 5, 3rd Floor,
   Dream's Mall. L.B.S. Marg,
   Bhandup (West), Mumbai – 400078.

NOTARY C.L. BADGE GREATER MUMBAI & DIST. Reg. No. 11210 Expiry Date 20.4.2020 GOVT. OF INDIA

7. State of Maharashtra
Through Public Prosecutor,
Bombay High Court.
Mumbai. .... Respondents

TO,
THE HON'BLE CHIEF JUSTICE AND
HIS HON'BLE COMPANION JUSTICES OF THE
HON'BLE BOMBAY HIGH COURT.

THE HUMBLE PETITION OF THE
PETITIONER ABOVENAMED

CRIMINAL PUBLIC INTEREST LITIGATION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

MOST RESPECTFULLY SHOWETH:

The Petitioner above named most respectfully submits as under:

1. That the Petitioner is a public spirited person, an Advocate practising in this Hon'ble Court, and a resident of State of Maharashtra, at the address given in the Cause Title. That vide the instant criminal public interest litigation petition, the petitioner seeks from this Hon'ble Court, urgent directions -

    (a) To refrain the Courts below to process any Bail Application of the Respondent accused persons until the amount defrauded is recovered.

    (b) To direct forthwith in public interest, constitution of a Committee headed by any Hon'ble Retired Judge of the Hon'ble Supreme Court or this Hon'ble Court so as to facilitate speedy recovery of the dues of the Respondent PMC Bank by conducting public auction of the properties directly or indirectly held by the accused persons,

NOTARY C.L. BADGE GREATER MUMBAI & DIST. THANE Reg. No. 11210 Expiry Date 20.4.2020 GOVT. OF INDIA whether mortgaged with the Bank or attached by EOW or Enforcement Directorate, for further settling the liabilities of the PMC Bank towards public at large having accounts with the said bank;

(c) To direct the Respondent No. 4 and 5 to extend full co-operation in the sale / auction process by such Committee that may be appointed by this Hon'ble Court;

(d) To direct the Respondent Investigating Agencies namely Enforcement Directorate and EOW not to cause any hinderance in sale of the properties attached by them in the instant case to forthwith facilitate settling the liabilities of the PMC Bank towards public at large having accounts with the said bank.

2. That the Respondent No. 1 is Union of India. Respondent No. 2 is EOW, Mumbai, investigating the case for violation of the provisions of Indian Penal code, 1860. Respondent No. 3 is Enforcement Directorate investigating the case under provisions of Prevention of Money Laundering Act, 2002. Respondent No. 4 and 5 are the key conspirators and the main beneficiary of the fraud, who are presently in custody at Central Prison, Mumbai, pursuant to their arrest by Respondent No. 2 in FIR/C.R. No. 86/2019 and by Respondent No. 3 in ECIR no. MBZO/MBZO-I/09/2019, and consequent remand by the Ld. ACMM, 47th Court, Esplanade, Mumbai and by the Hon'ble Sddl. Sessions Judge, 16th Court, City Sessions Court, Mumbai (Special Court for PMLA) respectively. Respondent No. 6 is the Bank, which is duped to the tune of more than Rs. 4355 Crores. Respondent No. 7 is the State of Maharashtra.

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3. That at the outset it is submitted that the instant petition is filed by the petitioner completely in public interest, and that the petitioner has neither any personal interest nor any motive in the subject matter

forming part of the instant petition. The instant petition is being preferred with bona fide and in public interest.

4. The brief relevant facts of the case are as follows-

4.1 That, the EOW, Mumbai Police registered FIR no. 375 of 2019 dated 30.09.2019 against various accused persons including amongst others against Respondent Nos. 4 and 5, for commission of offences punishable under Sections 120B read with Section/s 406, 409, 420, 465, 467 and 471 of IPC, 1860. A copy of the FIR no. 375 of 2019 dated 30.09.2019 is at **Exhibit-A.**

4.2 The FIR inter alia alleges that during 2008 to August, 2019, various officials of the Respondent Bank and other unknown person's alongwith promoters and executives of Housing Development and Infrastructure Limited (HDIL) committed various acts of criminal conspiracy by disbursing loans in a fraudulent manner and falsified the account books. Senior Bank Officials connived with the promoters and directors of HDIL and caused wrongful gain to HDIL and its promoters, thereby causing wrongful loss to the Bank and its depositors. The fraudulent disbursement of loan is amounting to more than Rs. 4355 Crores. Bank officials violated various regulations of Banking Regulation Act, 1949 and RBI Guidelines, and failed to disclose the true picture to RBI in its regulatory reporting by understating actual exposure of certain bad loan accounts which otherwise in normal course should have been disclosed and classified as NPAs, with mala fide intention. The Bank Officials fraudulently replaced 44 loan accounts whose individual balance outstanding was significantly higher with 21,049 fictitious loan accounts, which were mere entries in the advances master indent submitted to RBI. Thus, actual loan accounts were camouflaged to the detriment of the Bank and depositor's interest at large, thereby causing huge loss amounting to more than Rs. 4355 Crores.

4.3 As on March 31, 2019, 9.12 lakh depositors were holding Rs. 11617.34 Crore deposit with the Bank. The Respondent no. 4 and 5 are instrumental for the huge fraud perpetrated by them through HDIL and group companies.

4.4 Respondent No. 4 and 5 were arrested by EOW and remanded to custody.

4.5 Respondent no. 3 recorded an Enforcement Case Information Report ECIR/MBZO-I/09/2019 dated 03.10.2019 and commenced investigation in respect of the offence of money laundering on the basis of Scheduled Offences in the said FIR 375/2019.

4.6 In the investigation under PMLA, the Respondent No. 3 also arrested the Respondent No. 4 and 5 on 18.10.2019. It was alleged by the Respondent No. 3 that the accused Respondents 4 and 5 had played key role in the execution of the illegal transactions as alleged in the FIR and had actively participated in generation of proceeds of crime from the criminal activity. They were actual beneficiaries of the proceeds of crime. Respondent No. 3 has also alleged that the Respondent No. 4 and 5 were concealing material facts from investigation. The money trail qua the proceeds received from the bank and properties derived from the same are being ascertained. Hereto annexed and marked as **EXHIBIT-B** is a copy of the Remand Application filed by the Enforcement Directorate.

4.7 During the investigations various movable and immovable properties are seized / attached by the two Investigating agencies. Various cars including Rolls Royce Phantom, Bentley Continental, BMW 730LD, one luxury Yatcht Ferreti HT1, and two air planes namely VT PIL Challenger 300 and VT HDL Falcon 2000 are seized by EOW. Valuable Jewellery is also seized by the Enforcement Directorate. Immovable properties are attached by the Enforcement Directorate. Proceedings under the SARFAESI Act are also initiated in respect of certain mortgaged properties.

4.8 There is likelihood that the Respondents to drag the sale of the properties seized / attached may create various litigation or third party rights, if they are left at large or the process of auction and sale of the seized / attached properties is delayed. The value of the assets which are attached may also diminish with passage of time. The huge number of depositors would suffer irreparable loss if their hard earned money deposited with the Bank is not repaid in time.

4.9 In these circumstances, it is in utmost public interest, if this Hon'ble Court would take cognizance of the overall situation and would be kind enough to address the plight of the depositor's by issuing necessary directions as prayed for in the instant petition or as may deem fit and proper to this Hon'ble Court in larger public interest.

5. The Petitioner in the aforesaid background, is constrained to file the instant petition in the public interest on the following amongst other grounds which are being taken without prejudice to one another:

GROUNDS

A. Because, the Respondent no. 4 and 5 are not revealing the entire chain of money trail to enable the Respondent Investigating Agencies to seize and attach the entire amount for recovery of the amount payable to the Bank and consequently to the depositors. If these arrested accused persons are released from custody, they would abscond and would possibly create various litigations and third party rights etc to somehow delay the recovery process by selling of the attached / seized assets.

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B. Because, strict action is required to be taken against the Respondent No. 4 and 5, and their group entities. This is a gross case of deliberate violation of the provisions of law for personal pecuniary gain at the cost of public at large. Necessary directions as prayed for are required to be issued in the public interest.

C. Because, the Respondent No. 4 and 5 shall be directed to disclose all assets held by them directly or indirectly, in their name or in the name of any company, firm or individual, to enable the Respondent no. 2 and 3 to complete their investigation expeditiously.

D. BECAUSE, regular remedies for sale of the seized / attached properties are too dilatory. In the peculiar circumstances of the case, it would be in the interest of justice if in public interest, a Committee headed by any Hon'ble Retired Judge of the Hon'ble Supreme Court or this Hon'ble Court is constituted, so as to facilitate speedy recovery of the dues of the Respondent PMC Bank by conducting public auction of the movable and immovable properties directly or indirectly held by the accused persons, whether mortgaged with the Bank or attached by EOW or Enforcement Directorate or subject matter of SARFAESI, for further settling the liabilities of the PMC Bank towards public at large having accounts with the said bank.

E. BECAUSE, whereas the Respondent Investigating Agencies have made best efforts to identify and attach the assets of the Respondent No. 4 and 5 and their Group Companies, due to the peculiar provisions of the PMLA the ultimate recovery may take several years. The provisions of Section 5 and 8 of PMLA prescribe for Provisional Attachment Order, Complaint for Adjudication by the Adjudicating

Authority, Adjudication Order, Appeal against Adjudication Order, and if adjudication order of attachment is confirmed in Appeal, the ultimate confiscation would be on the outcome of criminal trial. If properties are confiscated by the Trial Court, then the Bank may claim the said properties confiscated under PMLA. The Respondent no. 3 therefore may cause hindrance in any immediate steps for sale of assets attached to cause timely recovery for the Bank, and consequently for the depositors.

F. Because, therefore, suitable directions are required to be issued to the Respondent Investigating Agencies namely Enforcement Directorate and EOW not to cause any hinderance in sale of the properties attached by them in the instant case to forthwith facilitate settling the liabilities of the PMC Bank towards public at large having accounts with the said bank.

G. BECAUSE, this Hon'ble Court has jurisdiction to pass appropriate orders to secure the ends of justice. The procedure prescribed in the provisions of PMLA or any other Act is not to avoid justice, but to ensure dispensation of justice. Speedy justice is fundamental right of the citizens under Article 14 and 21 of the Constitution of India.

H. Because, excellent prima facie case is made out for grant of interim / ad-interim reliefs as prayed in the instant PIL.

6. The petitioner craves leave to add/ modify or delete any of the grounds raised herein above.

7. The petitioner has paid the requisite Court Fee.

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PRAYER

8. Therefore, it is most respectfully prayed that this Hon'ble Court may kindly and graciously be pleased to:

(a) Issue an appropriate Writ, Order or direction in the nature of mandamus or any other writ, to refrain the Courts below to process any Bail Application of the Respondent accused persons until the amount defrauded is recovered.

(b) Issue an appropriate Writ, Order or direction in the nature of mandamus or any other writ directing forthwith constitution of a Committee headed by any Hon'ble Retired Judge of the Hon'ble Supreme Court or this Hon'ble Court so as to facilitate speedy recovery of the dues of the Respondent PMC Bank by conducting public auction of the properties directly or indirectly held by the accused persons, whether mortgaged with the Bank or attached by EOW or Enforcement Directorate, for further settling the liabilities of the PMC Bank towards public at large having accounts with the said bank;

(c) Issue an appropriate Writ, Order or direction in the nature of mandamus or any other writ directing the Respondent No. 4 and 5 to extend full co-operation in the sale / auction process by such Committee that may be appointed by this Hon'ble Court;

(d) To direct the Respondent Investigating Agencies namely Enforcement Directorate and EOW not to cause any hinderance in sale of the properties attached by them in the instant case to forthwith facilitate settling the liabilities of the PMC Bank towards public at large having accounts with the said bank;

(e) At the interim / ad-interim stage, during pendency of the instant petition, this Hon'ble Court may please –

(i) refrain the Courts below to process any Bail Application of the accused Respondent, and

(ii) the Respondent Investigating Agencies may please be directed to place on record before this Hon'ble Court, the details of the movable and immovable properties attached by them in the instant case;

(f) Any other or further Order may also be passed in public interest to secure the ends of justice.

Place: - Mumbai
Date:- 27/11/2019

Advocate for Petitioner

Petitioner

NOTARY
C. L. BADGE
GREATER MUMBAI & DIST. THANE
Reg. No. 11210
Expiry Date 29.4.2020
GOVT. OF INDIA

VERIFICATION

I, Sarosh Damania, Indian Inhabitant, male, age – 26 years, residing at 14/1105, Indra- Darshan II, Off link Road, Oshiwara, Andheri (West), Mumbai – 400053 do hereby verify the contents of Paragraph no. 1 to 8 are true and correct to the best of my knowledge and belief and nothing have been concealed. I further state on solemn affirmation that I have no personal benefit or pecuniary gain arising out of this petition.

Solemnly Affirmation at Mumbai }
On 27th date of November, 2019 }

Advocate for Petitioner

Sarosh Damania
Petitioner

BEFORE ME

Before Me
CHAKSHUPAL L. BADGE
B.A., LL.B.
ADVOCATE HIGH COURT
NOTARY GOVT. OF INDIA
Bldg. No. 166/4645 Pant Nagar,
Ghatkopar (E), Mumbai-400 075

NOTED & REGISTERED.
Sr. 0593/7/2019
Date 27/11/2019

27 NOV 2019

NOTARY C.L. BADGE GREATER MUMBAI THANE Regd. No. 11210 Expiry Date 20.4.2020 GOVT. OF INDIA

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NOTARY C. L. BADGE GREATER MUMBAI & DIST. THANE Reg. No. 11210 Expiry Date 20.4.2020 GOVT. OF INDIA

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E C W CR NO 36/19

FORM - IA

N.C.R.B.
I.I.F-1 04

पहिली खबर

FIRST INFORMATION REPORT

फौजदारी प्रक्रिया संहितेच्या कलम १५४ अन्वये (Under Section 154 Cr. P.C.)

1. राज्य Maharashtra State जिल्हा Mumbai District पोलीस ठाणे Bhandup Police Station पहिली खबर क्र. 375/19 FIR No. वर्ष 2019 Year दिनांक 30/09/2019 Date
2. (i) अधिनियम Act I.P.C. कलमे Sections 406, 409, 420, 465, 467, 471, r/w 120(B)
   (ii) अधिनियम Act कलमे Sections
   (iii) इतर अधिनियम व कलमे Other Acts and Sections
3. (a) अपराधाची घटना : वार Occurence of offence : Day तारीख पासून 2008 Date from वेळ Time तारीख पर्यंत Aug-2019 Date to वेळ Time

3. वेळेचा अवधी (प्रहर) (योग्य ठिकाणी अशी खूण करा. Tick applicable portion)
(1) 00.00 ते 03.00 (2) 03.00 ते 06.00 (3) 06.00 ते 09.00 (4) 09.00 ते 12.00 (5) 12.00 ते 15.00
(6) 15.00 ते 18.00 (7) 18.00 ते 21.00 (8) 21.00 ते 24.00 (9) 06.00 ते 18.00 (10) 18.00 ते 06.00

(b) पो. ठा. ला माहिती मिळालेची Information received at P. S. तारीख 30/09/19 Date वेळ 18.45 Time

(c) गुन्हा दाखल झालेचा सर्वसाधारण स्टेशन डायरीचा नोंद क्र. General Diary Reference : Entry No. 50/19 तारीख 30/09/19 Date वेळ 19:15 Time

4. माहितीचा प्रकार Type of information : लेखी / तोंडी Written / Oral Written

5. गुन्हा घडल्याचे ठिकाण (a) पोलीस ठाण्यापासून अंतर व दिशा Place of Occurence. (a) Direction and distance from P.S. 500 mtrs. towards South Direction चौकी/बीट/दुरक्षेत्र नाव व क्र. Chouki/Beat/O.P. Name and No. II.

(b) गुन्हा घडल्याचे ठिकाणाचे नाव Address of Occurence Name ठिकाणाचे नंबर No. if any गल्ली Ward रस्त्याचे नाव Name of road Punjab and Maharashtra Co-operative Bank Ltd, Corporate off.

जवळचे ओळखता येणारे स्थान Nearest Adentifiable Place गाव Village पोस्ट Post तालुका Taluka जिल्हा Dist. राज्य State office no. 4 and 5, 3rd floor, Dreams mall, LBS marg Bhandup (w) Mumbai-78

(c) पोलीस ठाण्याच्या हद्दीबाहेर असल्यास त्या पो. स्टे. चे नाव In case, outside the limit of this Police Station तालुका Taluka जिल्हा Dist. राज्य State

6. तक्रारदार / खबर देणाराचे नाव व पत्ता Complainant/Informant Permanent Address

(a) नाव Name Jasbir singh Matta (b) वडिलांचे / पतीचे नाव Father's / Husbands Name Kartar sing matta

(c) जन्मतारीख व वय Date of Birth & Age 47 yrs. (d) राष्ट्रीयत्व Nationality Indian फोन नं Phone No. 9930368852

(e) पारपत्र क्रमांक Passport No. दिल्याचा दिनांक Date of Issue दिल्याचे ठिकाण Place of Issue (f) व्यवसाय Occupation Manager CRe cell of P.M.C Bank

(g) धर्म Religion जात Caste जनजात Sub-Caste

(h) पत्ता गल्ली/सर्व्हे नं. Address Ward घर/नाव नंबर House/Name No. flat No 412, om shiv shakti CHS (G.T.B Nagar), SRA CHS, फोन/मो. नंबर Phone/M. No. पॅन नं. Pan No. ओटर्स नं. Card No.

रस्त्याचे नाव Road जवळचे प्रसिद्ध ठिकाण Nearest identifiable place Sion koliwada, Mumbai - 400037 गाव Village पोस्ट Post पो. स्टे P. Stn.

तालुका Taluka जिल्हा Dist. राज्य State सध्याचा पत्ता Present Address

7. माहिती असलेल्या आरोपीचे संपूर्ण नाव व पत्ता (आवश्यक असल्यास स्वतंत्र कागद जोडावा) (संशयिताचे वर्णन प्र. ख. रिपोर्टच्या फॉर्म 1 B वर घेतल्या सिटवर घेऊन तपासिक अंमलदाराच्या प्रथम खबरीला व स. अभियोक्ता यांच्या फाईलला जोडावे).
Details Name & Address of known Accused (Attach separate sheet, if necessary) (If suspect particular of physical feature write on Form 1-B of attach FIR 1-B to case diary).

1) Joy Thomas, the then managing Director of P.M.C. Bank Ltd, Bhandup, mumbai
2) and The then Board of Directors of the Bank namely Waryam sing and others.
3) Sarang Wadhawan, Rakeshkumar Wadhawan and other executives of HDIL
4) Bank officials of P.M.C Bank Ltd. and other unknown person.

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A written complaint of shri Jasbir singh Matta, sikh - 47 year's, occupation - manager (Recovery cell of Punjab and Maharashtra co-op Bank Limited, Bhandup (west), mumbai being autorised by shri. J.B. Bhoria, Administrator appointed by. Reserve Bank of India, is attached here-with separately which may ~~please~~ be treated as First Information Report.

Before me,

(Devendra Ahire.)
Police sub Inspector
Bhandup police station
Mumbai

(shri. Jasbir singh Matta)

INSPECTOR OF POLICE
BANKING UNIT, E.O.W., MUMBAI

सत्यप्रत
प्रभारी पोलीस निरीक्षक,
बँकींग १, आ.गु.वि., मुंबई

8. तक्रारदाराने/फिर्यादीने तक्रार करण्याकरिता झालेल्या विलंबाची कारणे ...... written complaint
Records for delay in reporting by the Complainant/informant

9. चोरीस गेलेल्या / अंतर्भूत मालमत्तेचा तपशील (आवश्यकतेनुसार नमुना फॉर्म जोडाया) सविस्तार मजकूर पाठीमागे लिहावे.
Particulars of properties stolen and involved (Attach necessary Proform) write down details on blank back page.

10. (a) चोरीस गेलेल्या / अंतर्भूत मालमत्तेचे एकूण मूल्य ...... Rs. 4355 crores (which may increase further)
Total value of properties stolen and involved

(b) चोरीची मिळालेली मालमत्ता (Recover Properties) —

11. अकस्मात मृत्यू / अपघाती मृत्यू असल्यास त्याचा क्रमांक ......
Unnatural/Accidental Death Case No.. if any

12. पहिल्या खबरीची थोडक्यात हकिगत (आवश्यक असल्यास स्वतंत्र कागद जोडाया) सविस्तर पाठीमागील कोऱ्या पानावर लिहावे.
First Information brief contents (Attach separate sheet, if required) : Detail write down back blank page.

on mentioned date, time, Place and Period from 2008 to August 2019 the accused person's namely shri Joy Thomas, the than M.D of P.M.C. Bank, Bhandup, Mum in connivance conspired with other Bank official's, Board of Directors mainly shri ...yam Singh, Sarang Wadhwan, Rakeshkumar Wadhawan of HDIL and others and unknown person's ~~and~~ committed various acts of criminal conspiracy cheating, criminal Breach of trust, forgery, falsification of records and thereby caus a wrongful loss prima facie to the tune of Rs 4355 crores to P.M.C Bank and corresp. gain to themselves and other's and committed offence vide u/s 409, 406, 420, 465, 46... 471 IPC r/w 120 (B) IPC

13. केलेली कार्यवाही — 1 वरील फिर्यादीवरून कॉलम नं. 2 मधील कलमाप्रमाणे गुन्हा दाखल करून तपासावर घेतला. तपास करण्याचे आदेश दिले त्या तपासिक अंमलदाराचे नाव व हुद्दा ......
2 तपास नाकारण्यात आला त्याचे कारण ......
3 गुन्हा या पोलीस ठाण्याकडे वर्ग करण्यात आला पोलीस स्टेशन ...... E O W, Mumbai जिल्हा ...... राज्य ......

Action taken.— Since the above information reveals Commission of offence (s) u/s as mentioned at Item No. 2.
(1) Registered case and took up the investigation or Directed (Name of I. O.) ...... Rank ...... No. ......
to take up the Investigation or ...... (3) Transferred to P. S. ......
(2) Refused Investigation due to .... on point of jurisdiction.
District ......

तक्रारदाराने / फिर्यादीने फिर्याद वाचून पाहिली. फिर्याद बरोबर लिहिली असल्याचे पाहून/वाचून/ऐकून बरोबर नोंदविली असल्याचे त्याने मान्य केले व त्याची एक प्रत त्यास विनामूल्य देण्यात आली.
F.I.R. read over to the Complainant/Informant, admitted to be correctly recorded and a copy given to the Complainant/informant, free of cost.

(R.O.A.C.)

(Shri. Jasbir singh Matta)

14. तक्रारदाराची सही व अंगठा
Signature and Thumb impression
of the Complainant/Informant

15. १ न्यायालयास सादर केल्याची तारीख ......
1 Date and time of submitted to the Court.

पोलीस ठाणे प्रभारी अधिकाऱ्याची सही.
Signature of Officer Incharge, Police Station.
संपूर्ण नाव Name Devendra Ahire
पदनाम Rank Police Sub Inspector
तपासिक अ. ना कोड क्र
Posting
Coding No. of I. O. ......

सत्यप्रत

प्रत, 2 फिर्यादी, 3. पोलीस अधीक्षक (संगणक), 4. तपासिक अंमलदार, 5. स्थळ प्रत.
Copy to, 2 Complainant, 3. Supdt. of Police (Computer), 4. Inv. Officer, 5. Office Copy.

... पोलीस निरीक्षक, ... (8), आ.गु.शा., मुंबई

Attachment to item 7 of First Information Report

NOTARY C.L. BADGE GREATER MUMBAI & DIST. THANE Reg. No. 11210 Expiry Date 2020 GOVT. OF INDIA

PMC BANK
PUNJAB & MAHARASHTRA CO-OPERATIVE BANK LIMITED
MULTI-STATE SCHEDULED BANK
We enjoy to serve

PUNJAB & MAHARASHTRA CO-OPERATIVE BANK LIMITED
MULTI-STATE SCHEDULED BANK

Corporate Office
Office No. 4 & 5, 3rd Floor, Dreams Mall, LBS Marg, Bhandup (W), Mumbai - 400078. T.: (022) 6780 4000

Ref. No./PM/CO/ ____________ Date ____________

PM/CO/SEC/74/ 2019-20

Date: 30/09/2019

The Joint Commissioner of Police
Economic Offences Wing
Police Commissioner Office
Crawford Market, Fort
Mumbai – 400 001

Dear Sir,

Subject: - First Information Report.

I the undersigned Jasbir Singh Matta Sikh- 47 Years, Occupation:- Manager (Recovery Cell of Punjab & Maharashtra Co-Op. Bank Ltd., Bhandup West Residence- Flat Number 412, Om Shiv Shakti (GTB Nagar), SRA CHS, Sion Koliwada, Mumbai-400037 Cell Number-9930368842 being authorised by Shri. J. B. Bhoria Administrator appointed by Reserve Bank of India. vide letter GM/10/2019-20 hereby provides First Information as under:

2 I state that, Punjab and Maharashtra Cooperative (PMC) Bank Limited (the bank). registered as a cooperative society under the provisions of Maharashtra Cooperative Societies Act, 1960 was granted license to carry on banking business by the Reserve Bank of India in the year 1984. The bank is having its registered office at 240, Shankar Sadan, Sion (E), Mumbai – 400 022. The bank received scheduled status in the year 2000 and became a multi-state cooperative bank in 2004 and as of now it is operating in six states. The area of operation of the bank is spread in more than one state and as on March 31, 2019, 9.12 lakh depositors were holding Rs.11617.34 crore deposits with the bank.

3. The conduct of the banking business by the bank is subject to the provisions of the Banking Regulation Act, 1949 (As Applicable to Cooperative Societies) [hereinafter referred as BR Act] and the directions/guidelines issued by RBI from time to time.

सत्यप्रत

Registered Office
240, Shankar Sadan, Sion (E), Mumbai - 400022. T.: (022) 2401 4190
Toll free no.: 1800 223 993

17

4 That, we came to know from our records that The Managing Director (MD) of the bank Shri Joy Thomas, other functionaries including the Board of Directors executives of the bank, and promoters of HDIL have connived to commit illegal acts/offences.

5. It revealed that some big loans which belonged to a certain group (mainly HDIL group of companies) were intentionally given to cause wrongful gain to HDIL and its promoters at the cost of wrongful loss to the bank and its depositors. The records were fabricated/ falsified to hide the irregularities in a calculated design. The wrongful acts of the management of t bank have resulted in the risk of depositors losing their money.

6. The bank in their regulatory reporting had understated the actual exposure of certain bad loan accounts which in the normal course should have been disclosed and classified as Non-Performing Assets (NPAs) as per the extant RBI norms. Also, the bank while reporting to RBI has suppressed information of certain actual loan accounts with huge exposure and surreptitiously/deliberately replaced them with certain fictitious accounts. A sample of such suppressed loan accounts reveals that around Rs.4355.46 crore was involved in such act of falsification. The borrowers in these loan accounts HDIL (Housing Development and Infrastructure Limited group of companies) and the functionaries of the bank are the suspected beneficiaries. These information are in regard to only few entities, there may be other entities, about which I am presently unaware

7. <u>The instances that indicate commission of fraud are given as below:</u>

In the advances master indent for the year ended March 31, 2018 submitted to RBI, the bank had replaced 44 loan accounts whose individual balance outstanding was significantly higher (principal outstanding + interest outstanding) with 21049 fictitious loan accounts whose individual balance outstanding was comparatively lower. These 21049 accounts were actually not created in the Core Banking Solution of the bank, instead were mere entries in the advances master indent submitted to RBI for the purpose of conducting their inspection for the year ended March 31, 2018. By doing this, with full knowledge of its board and executives including MD (Managing Director) Shri Joy Thomas the bank had camouflaged the actual loan accounts of the defaulting borrowers to the detriment of the bank and depositor's interest.

PMC BANK
PUNJAB & MAHARASHTRA CO-OPERATIVE BANK LIMITED
MULTI-STATE SCHEDULED BANK
Estd 1984 We enjoy to serve

PUNJAB & MAHARASHTRA CO-OPERATIVE BANK LIMITED
MULTI-STATE SCHEDULED BANK

Corporate Office
Office No. 4 & 5, 3rd Floor, Dreams Mall, LBS Marg, Bhandup (W),
Mumbai - 400078. T.: (022) 6780 4000

Ref. No./PM/CO/ ____________ Date ________

8. A preliminary assessment by the interim RBI inspection, conducted by RBI officials, it was revealed that 10 out of 44 borrowal accounts belonging to the HDIL group of companies revealed the following picture: -

S. No	Account Number	Account Name	Balance outstanding as on March 31, 2019 (Rs. In crore)	Balance outstanding as on August 31, 2019 (Rs. In crore)
1	1407/3216 002140700003216	Rakeshkumar Kuldip Singh Wadhawan	1902.66	2008.62
2	1407/4018 002140700004018	Housing Development and Infrastructure	1306.2	1367.55
3	015130700000001	Somerset Construction Private Limited	226.29	239.16
4	1407/2703 002140700002703	Serveall Construction Private Limited	180.58	190.68
5	1407/1024 002140700001024	Saphhire Land Development Private Limited	136.54	145.59
6	1407/2798	Emerald Realtors Private Limited	114.75	145.01
7	1407/5964 002140700005964	Awas Developers & Construction Pvt Ltd	133.01	140.43
8	1407/10174 002140700010174	Sarang Wadhawan	128.65	137.16
9	1407/5965 002140700005965	Prithvi Realtors & Hotels Pvt Ltd	104.44	131.96
10	1407/1416 002140700001416	Satyam Realtors Pvt Ltd	122.34	129.46
		TOTAL	4355.46	4635.62

9. The actual financial position of the bank was camouflaged, and the bank deceptively reflected a rosy picture of its financial parameters. Thus, encouraging more depositors to open accounts with the Bank, to their detriment and also the fabrication/falsification has affected the depositors' interest adversely.

सत्यप्रत

प्रभारी पोलिस निरीक्षक,
बँकिंग १, आ.गु.शा., मुंबई

Registered Office
240, Shankar Sadan, Sion (E), Mumbai - 400022. T.: (022) 2401 4190
Toll free no.: 1800 223 993

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Mumbai - 400078. T: (022) 6780 4000

Ref. No./PM/CO/ __________ Date __________

10. The perpetrators of the fraud viz. Managing Director, other functionaries, Board of Directors of HDIL and of the PMC Bank connived among themselves and in furtherance of criminal conspiracy therefore facilitated huge lending to the HDIL group of companies and other yet unknown entities, which were concealed from RBI and depositors to dupe the regulators, depositors and others. The management and persons responsible for the conduct of the business of the bank are liable to be prosecuted for conspiracy, criminal breach of trust, cheating, forgery, falsification of records etc.

11. In terms of the provisions of BR Act, every Chairman, Managing Director, Director, Auditor, Manager and any other employee of the bank are liable to be prosecuted for framing/preparing incorrect documents with intent to cause damage to the interests of depositors.

12. I therefore state that, during the period from 2008 to 2019, by committing above acts of criminal conspiracy cheating, Criminal Breach of trust, forgery and falsification of records Sh Joy Thomas, the then Managing Director of Punjab & Maharashtra Co-Operative Bank Limited along with Shri Waryam Singh and other members of the Board of Directors of the PMC Bank and other Bank officials. Shri Sarang Wadhwan, Shri Rakesh Kumar Kuldip Singh Wadhwan and other unknown persons of HDIL and promoters and executives of Somerset Construction Pvt. Ltd, Serveall Construction Pvt. Ltd., Sapphire Land Development Pvt. Ltd. , Emeralds Realtors Pvt. Ltd., Awas Developers and construction Pvt. Ltd., Prithvi Realtors and Hotels Pvt. Ltd., Satyam Realtors Pvt. Ltd and other executives of PMC Bank and related persons caused a wrongful loss prima facie to the tune of Rs.4355 Crores (which may increase further) to Punjab & Maharashtra Co-Operative Bank Limited and corresponding gain to themselves and others. Hence I request you to initiate appropriate legal action against them U/s 409, 420,465, 466,471,IPC r/w 120(B) I.P.C.

Yours faithfully

(Jasbir Singh Matta)
Manager (Recovery Department)
Punjab & Maharashtra Co-Operative Bank Limited.

सत्यप्रत
प्रभारी पोलीस निरीक्षक,
बँकींग १, आ.गु.शा.

Registered Office
240, Shankar Sadan, Sion (E), Mumbai - 400022. T.: (022) 2401 4190
Toll free no.: 1800 223 993

BEFORE THE 16th COURT OF ADDL. SESSIONS JUDGE,

THE DESIGNATED SPECIAL COURT UNDER PMLA,

CITY SESSIONS COURT, MUMBAI,

REMAND APPLICATION NO 1171 OF 2019

IN

ECIR Nos. MBZO/MBZO-I/09/2019

In the matter of -

DIRECTORATE OF ENFORCEMENT,
THROUGH THE ASSISTANT DIRECTOR,
ZONAL OFFICE – I,
MUMBAI – 400 001. ... APPLICANT

Vs

1. RAKESH KUMAR WADHAWAN
   S/O SH. KULDEEP SINGH WADHAWAN
   AGED ABOUT 68 YEARS
   DIRECTOR OF HOUSING DEVELOPMENT AND
   INFRASTRUCTURE LIMITED (HDIL)
2. SARANG WADHAWAN
   S/O RAKESH KUMAR WADHAWAN
   AGED ABOUT 42 YEARS
   DIRECTOR OF HOUSING DEVELOPMENT
   AND INFRASTRUCTUIRE LIMITED (HDIL)

   BOTH R/O:
   WADHWAN HOUSE,
   PLOT NO. 32/A, UNION PARK, ROAD NO.5,
   OPP. JB PETIT SCHOOL,
   BANDRA WEST, MUMBAI- 400050.

.... ACCUSED PERSONS

APPLICATION UNDER SECTION 65 OF PMLA, 2002 READ WITH SECTION 167(2) OF Cr.P.C. FOR FURTHER CUSTODY OF THE ACCUSED ABOVENAMED TO THE APPLICANT FOR PURPOSE OF INVESTIGATION UNDER THE PROVISIONS OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 IN ECIR/MBZO-1/09/2019.

MAY IT PLEASE YOUR WORSHIP:-

I, D.C. Nahak, 50 years, Assistant Director, Directorate of Enforcement, Ministry of Finance, Department of Revenue, Government of India, Zonal Office-I, Mumbai, having its office 4th floor, Kaiser-I-Hind Building, Currimbhoy Road, Ballard Estate, Mumbai – 400 001, do hereby solemnly affirm and state as under :-

1. The Directorate of Enforcement, Ministry of Finance, Department of Revenue, Government of India, is a statutory Investigating Agency, established by the Government of India and is the only Agency/Department entrusted and empowered to investigate the cases of suspected commission of offence of money-laundering as defined under Section 3 punishable under section 4 of the Prevention of Money Laundering Act, 2002.
2. That brief facts necessary for consideration of this Hon'ble Court are as follows –
   a. That the EOW, Mumbai Police has registered an FIR No.375/2019 dated 30.09.2019 against S/Sh. Joy Thomas, Waryam Singh (Directors of PMC Bank), Rakesh Kumar Wadhawan, Sarang Wadhawan and unknown others for commission of offences punishable under sections 120B r/w 406,409, 420, 465, 467 and 471 of IPC, 1860. It is alleged that during the period 2008 to August, 2019, the then Managing Director, Board of Directors, Bank Officials of Punjab and Maharashtra Co-operative Bank (PMC Bank) and other unknown persons along with the promoters and executives of the Housing Development & Infrastructure Limited (HDIL) committed various acts of criminal conspiracy by disbursing loans in a fraudulent manner and falsified the account books and thus, committed offence of cheating, forgery etc. It is further alleged that the erstwhile Managing Director and Board of Directors along with the officials have connived with the promoters of HDIL and caused wrongful gain to the HDIL and its promoters, thereby causing wrongful loss to the bank and its depositors and in this manner, it is alleged that there was fraudulent disbursement of loan amounting to Rs 4355 Crores to HDIL.
   b. That the PMC Bank, in utter disregard to various regulations like Banking Regulation Act, 1949 and RBI guidelines, failed to disclose the true picture in its regulatory reporting to the RBI by understating the actual exposure of certain bad loan accounts which otherwise in the normal course should have been disclosed and classified as Non-Performing Assets (NPAs) as per the extant RBI norms. This was done with a malafide intention and in the process, the accused also suppressed the information of actual

bank accounts which would have revealed that around Rs. 4355 crores were loaned to a single entity in this case.

c. That the Managing Director and other bank officials in connivance have falsified the books of the PMC Bank and in a fraudulent manner had replaced 44 loan accounts whose individual balance outstanding was significantly higher (principal outstanding + interest outstanding) with 21,049 fictitious loan accounts whose individual balance outstanding was comparatively lower. These 21,049 accounts were actually not created in the Core Banking Solution of the bank, instead were mere entries in the advances master indent submitted to RBI for the purpose of conducting their inspection for the year ending on March 31, 2018. Thus, they camouflaged the actual loan accounts of the defaulting borrowers to the detriment of the bank and depositor's interest at large.

d. The suspected bank officials viz. Shri Joy Thomas, the then Managing Director and one Sh. Waryam Singh, the then Director of PMC Bank in criminal conspiracy with the suspected persons/companies namely HDIL through Sh. Rakesh Kumar Wadhawan (Executive Chairman) and Sh. Sarang Wadhawan (Vice-Chairman & Managing Director) caused wrongful loss to the bank by fraudulent disbursement of loan to the extent of Rs.4355 Crores.

e. That, the EOW, Mumbai had arrested Sh. Rakesh Kumar Wadhawan and Sh. Sarang Wadhawan, in FIR no. 375/2019 and the Ld. **Additional CMM, 47th Court, Mumbai** was pleased to remand them to police custody till 16.10.2019. The said Ld. Court, vide order dated 16.10.2019 remanded both the accused to judicial custody till 23.10.2019.

3. It is submitted that the Applicant hereinabove have recorded an Enforcement Case Information Registration No. ECIR/MBZO-I/09/2019 dated 03.10.2019 in respect of FIR No. No.375 dated 30.09.2019, to initiate investigation for money laundering under PMLA, 2002 as offences under Section 120B, 420, 467 & 471 of IPC are Scheduled Offences under Paragraph 1 of Part 'A' of the Schedule to the Prevention of Money Laundering Act, 2002 (as amended).

4. That it *prima facie* appeared that the said persons arrested by the EOW have played a key role in the execution of said illegal transactions as alleged in the FIR and have actively participated in generation of proceeds of crime from the criminal activity related to scheduled offence. Further, it also appeared that they are the actual beneficiaries of the proceeds of crime. Therefore, it was imperative for the Directorate to take

the suspected persons in its custody and to confront them with the documents and record their statements and expedite the case to take it to its logical conclusion. The suspected persons being key conspirators, their personal interrogation was need of the hour.

5. That as the accused were in judicial custody of the Hon'ble Court of Additional CMM, the Applicant had moved a Misc. Application No. 1724 of 2019 for issue of Production Warrant u/s 65 of PMLA, 2002 r/w Section 267 of Code of Criminal Procedure, 1973, before this Hon'ble Court. After considering all the facts and circumstances of the case, this Hon'ble Court was pleased to issue production warrant vide order dated 16.10.2019. In pursuance thereof, the Production Warrant was issued on 17.10.2019 for production of the accused before this court on 17.10.2019 itself.
6. That, in due compliance of order dated 17.10.2019, the applicant had dutifully informed the Hon'ble Court of 47th Additional CMM, vide Misc. Appl dated 17.10.2019 about the issuance of the production warrant against the above-named Accused persons.
7. That further, as directed by this Hon'ble Court, the accused were taken in to custody by Sh. D.C. Nahak, Assistant Director on 17.10.2019 in pursuance of Production Warrant dated 17.10.2019 from the Superintendent of Jail, Central Prison, Mumbai. The accused had been formally arrested outside the premises of City Civil Court, Bombay on 18.10.2019 at about 02.00 pm u/s 19 of the PMLA, 2002 after informing them about the reasons for their arrest. They have been communicated that they are being arrested on a *prima facie* belief of being guilty of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.
8. That based on the Remand Application no. 1171/2019 dated 18.10.2019, this Hon'ble Court was pleased to grant custody of the Accused to the Department till 22.10.2018.
9. It is submitted that during the period of ED custody, the statements of the Accused Shri Sarang Wadhawan were recorded on 19th, 20th and 21st October 2019 under the provisions of Sub-Section (2) & (3) of Section 50 of the PMLA, 2002. Shri Sarang Wadhawan has provided the details of loans availed by the HDIL and its group companies and also the details of assets held by the said company. Likewise, statement of Shri Rakesh Kumar Wadhawan was also recorded under the provisions of Sub-Section (2) & (3) of Section 50 of the PMLA, 2002 wherein he *inter alia* provided the details of loans availed by him and the also the companies under control. It may be appreciated that the Accused above named have played a very crucial role in laundering of huge amounts of money and

are concealing material facts from investigation. The money trail qua the proceeds received from the bank and properties derived from the same are still to be ascertained. It appears from the investigation conducted so far that they are *prima facie* guilty of the offence of money laundering as defined u/s 3 and punishable u/s 4 of PMLA, 2002.

10. That as stated above, the interrogation of above-named accused persons may reveal crucial facts which are in their exclusive domain, they being a key conspirator and directors of HDIL and having used the monies from the bank. The money trail for the same is in their knowledge and the truth still needs to be elicited. The case has wide ramifications and involves huge sum of public monies which have been siphoned. Their personal interrogation is need of the hour in the interest of investigation of the offence of money laundering under PMLA as there is likelihood of the properties derived from the proceeds of crime being obfuscated to frustrate the proceedings under the PMLA, 2002.

11. That efforts are being made to find out the utilization of the said proceeds of crime. Hence, their further statements are required to be recorded regarding the utilization of the Proceeds of Crime.

12. That this Hon'ble Court may kindly appreciate that the offence of money-laundering as defined under section 3 punishable under section 4 of the PMLA, 2002 is a serious and grave offence in nature. Considering the same and the role of the accused in the offence of money laundering as brought out above the custody of accused may kindly be given to the Directorate of Enforcement.

<u>PRAYER</u>

It is therefore humbly prayed that –

i) this Hon'ble Court be pleased to grant further custody of the accused above named to the Directorate of Enforcement till 25.10.2019 for the purpose of further investigation into the offence of money laundering in the above said case recorded by this Directorate

ii) for such other and further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Sd/-
(D.C. Nahak)
Assistant Director,
Directorate of Enforcement,
Mumbai
Applicant

Place – Mumbai
Dated this 22nd day of October, 2019.

Adv. for Petr

IN THE HON'BLE HIGH COURT OF JUDICATURE AT MUMBAI

CRIMINAL APPELLATE JURISDICTION

CRIMINAL PUBLIC INTEREST LITIGATION ______ OF 2019

SAROSH DAMANIA ... Petitioner

Versus

UNION OF INDIA & ORS. ... Respondent

To,

The Registrar,

High Court (A.S), Bombay.

Mumbai – 400 032.

VAKALATNAMA

Sir,

I, Sarosh Damania, the petitioner abovenamed, do hereby appoint MR. J. N. Jain, Advocate, High Court, to act, appear and plead for me in the above captioned matter.

IN WITNESS WHEREOFF, I have set my hand to this writing

At MUMBAI, dated this 27th day of November, 2019.

Petitioner

Accepted

Advocate for Petitioner

J. N. Jain
10/61, Rakesh Kunj,
TPS V Road,
Santacruz (East)
Mumbai – 400055
9870582346
Original Adc
MAH/4624/14
I-13164

IN THE HON'BLE HIGH COURT OF
JUDICATURE AT MUMBAI

CRIMINAL APPELLATE JURISDICTION

CRIMINAL PUBLIC INTEREST LITIGATION
______ OF 2019

SAROSH DAMANIA ... Petitioner

Versus

UNION OF INDIA & ORS. ... Respondent

CRIMINAL PUBLIC INTEREST LITIGATION

Dated this ____ day of November, 2019

27 NOV 2019

NOTARY
C. L. BADGE
GREATER MUMBAI & DIST. THANE
Reg. No. 11210
Expiry Date 20.4.2020
GOVT. OF INDIA

J. N. JAIN
Advocate for Petitioner