CNR No : HCBM010541002026

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.5799 OF 2026

Bailor Raghvendra Shetty]
Age – 63 years Occu – Business]
R/o Flat No.141, 14th Floor,]
Kalpataru Pinnacle,]
Goregaon – Mulund Link Rd.,]
Goregaon (W), Mumbai 62.] … Petitioner

V/s.

1. The State of Maharashtra]
(through the Investigating]
Officer, EOW Hsg Unit – 1, Mumbai)]

2. Jayesh Vinod Tanna,]
Bungalow No.04, Balasinor Society,]
S.V. Road, Kandivali (W),]
Mumbai – 400 067.]

3. M/s. Sai Siddhant Developers,]
a partnership firm, having its office]
at Shri Sai Group of Companies, 01,]
Ram Krupa Building, Devji Bhimji]
Lane, Mathuradas Road, Kandivali (W),]
Mumbai – 400 067.]

4. Heena Jayesh Tanna,]
Bungalow No.4, Balasinor Society,]
S.V. Road, Kandivali (W),]
Mumbai – 400 067.]

5. Vivek Jayesh Tanna,]
Bungalow No.04, Balasinor Society,]
S.V. Road, Kandivali (W),]
Mumbai – 400 067.] … Respondents

SUMEDH NAMDEO SONAWANE
Digitally signed by SUMEDH NAMDEO SONAWANE
Date: 2026.11.17 14:33:16 +0530

Uploaded on - 17/11/2026 Downloaded on - 17/11/2026 14:50:59

Mr. Kushal Mor a/w. Adv. Sarthak P. Shetty for the Petitioner.
Smt. Madhavi H. Mhatre, APP for the Respondent-State.

CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.
DATE : 3rd November, 2026

Judgment (Per : A. S. Gadkari, J) :-

1) By this Petition under Article 226 of the Constitution of India, Petitioner seeks a writ of Mandamus or any other appropriate writ, order or direction, directing the Respondent No.1 to apply the provisions of Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ('MPID Act') to C.R. No.19 of 2023.

2) The short question for our determination in the present Petition is, whether an advance received by the developer towards sale of flat, which the agreement requires to be refunded with interest at 9% if the flat is not delivered, could be termed as 'deposit' under Section 2(c) of the MPID Act.

3) We have heard Mr. Mor, learned counsel for the Petitioner, Smt. Mhatre, learned APP for the State and perused the entire record.

4) The Petitioner is the first informant. The prosecution's case is that, the Respondent No.3 entered into Agreement with informant and other persons for sale of the flats in the redevelopment project of Suryakiran Co-op. Housing Society Ltd., Building No.7, D.N. Nagar, Mumbai

Uploaded on - 17/11/2026 Downloaded on - 17/11/2026 14:50:59

and received a total of Rs.6,51,00,000/- from various purchasers, who are witnesses in the said crime. It is alleged that, the Respondent No.3 failed to deliver possession of the flats within stipulated period and misappropriated that amount. On this basis, the crime was registered.

5) Mr. Mor submitted that, the Agreement itself contained a clause under which, if Respondent No.3 or its partners failed to hand over possession of duly constructed residential flat to the Petitioner and other purchasers, the developers would refund the amount with simple interest at the rate of 9% p.a. As the Respondent No.3 failed to hand over possession of the flats within stipulated period, the clause providing refund of amount along with interest thereon became enforceable and the provisions of the MPID Act were thereby attracted. He submitted that, the Police, while filing charge-sheet, failed to apply the MPID Act to the said crime and therefore the present Petition is filed seeking the above noted relief.

6) We are not in agreement with the learned counsel for the Petitioner. Perusal of record indicates that, as a matter of fact, out of five flats, possession of two flats have been handed over to the Petitioner and/or other witnesses by the Respondent No.3. Apparently therefore, the Agreements have been partially acted upon. At most, it would mean that the Respondent No.3 has partly performed its obligation under the Agreement and consequently, the Petitioner would be entitled to a refund of money with 9% interest as per the agreed terms.

Uploaded on - 17/11/2026 Downloaded on - 17/11/2026 14:50:59

7) In our considered view, failure to hand over flats and alternatively return money with agreed interest, does not constitute offence as contemplated under Section 3 or Section 4 of the MPID Act. Admittedly, the Respondent Nos.3 to 5, have not assured and/or guaranteed exorbitant rate of interest on deposits, contrary to the guidelines issued by the Reserve Bank of India, to the Petitioner.

8) According to us, the money received by the Respondent Nos. 3 to 5 under the five Agreements, was an advance payment specifically towards purchase of flats and cannot be termed as 'deposit' under section 2(c) of the MPID Act.

9) In view of the above, we find no merits in the Petition and is accordingly dismissed.

(KAMAL KHATA, J.) (A.S. GADKARI, J.)

Uploaded on - 17/11/2026 Downloaded on - 17/11/2026 14:50:59