IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3344 OF 2015
WITH APPLN/3840/2015

BAPURAO S/O MAHADEO NETAKE
VERSUS
THE STATE OF MAHARASHTRA
...

Advocate for Applicant : Mr. A.N. Kakade
Mrs. P.J. Bharad, APP for respondent.

CORAM : V.M. DESHPANDE, J.
DATE : 27TH JULY, 2015.

PER COURT:

1] By this application, the applicant is seeking anticipatory bail, since the applicant is apprehending his arrest, in connection with crime No. 135 of 2015, registered with Police Station, Beed, for the offence under Sections 408, 409 r/w. 34 of IPC.

2] There is one Development Corporation, in the State of Maharashtra known as "Sahitya Ratna Lokshahir Annabhau Sathe Development Corporation". The said corporation is established for upliftment of the down trodden. The applicant is the District Manager of the Corporation. The FIR is lodged by the Regiional Manager Shri Anil Mhaske. By the said FIR, it is reported that there is a huge misappropriation to the tune of Rs. 9,67,07,522/- (Rupees Nine Crore Sixty Seven Lakhs Seven Thousand Five Hundred twenty two). Out of the said amount, Rs. 5,07,00,000 (Rupees Five Crores and Seven Lakhs) were withdrawn by self cheques by the present applicant and an amount of Rs. 1,51,64,178/- (One

Crore Fifty one Lakhs Sixty Four Thousand One Hundred Seventy Eight) was transferred to certain bank accounts through RTGS. Those accounts are not having any concern in whatsoever manner, with the Corporation.

3] Learned counsel Shri Kakade, for the applicant would submit that the present applicant is entitled for the discretionary relief in view of the anticipatory bail granted in favour of another co-accused by the trial court. He, therefore, submitted that on the principle of parity, discretion should be exercised in favour of the applicant.

4] Apart from the fact that reply is filed on behalf of the Investigating Officer, learned APP Smt. Pratibha Bharad submitted that now, the investigation is transferred to CID in view of the magnitude of the crime in question.

From the reply filed on behalf of respondent, it is clear that in spite of the fact that not a single proposal from any beneficiary is available on record, during the financial year 2014-15, an amount of Rs.9,67,07,522/-, was transferred online from the office of the Corporation at Mumbai and other Districts and to the office of the Corporation at Beed, of which the present applicant is the Manager. It is not in dispute that all control of the Beed office is with the applicant. It is also pointed out that the applicant has withdrawn more than rupees Five Crores by means of self cheque. Reply also shows that the Investigating Officer has recorded statement of the bank officials, which clearly shows that the present applicant has personally carried cash from the bank.

5] The investigation is at a very primary stage. The State Exchequer is defrauded by the officials of the Corporation like the present applicant. At this stage, it will not be appropriate on the part of the Court to make any comment in respect of the anticipatory bail granted by the trial court in favour of the other accused. However, looking to the fact that the present applicant has withdrawn a huge amount from the bank account by cash, and has personally taken the said amount with him and the amount is not accounted for appropriately in the bank accounts, in my view, this is not a fit case, wherein, discretion should be exercised in favour of the applicant. Hence, the application is dismissed. Interim order dated 29.6.2015 stands vacated forthwith.

[V.M. DESHPANDE,J]

grt/-