

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Mahesh Kamalakar Gogar	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.R.D.Suryawanshi, for the Applicant.
Mr.Y.M.Nakhwa, APP for the Respondent – State.
Mr.S.S.Mhaske, Kolsewadi Police Station, Kalyan.

CORAM : REVATI MOHITE DERE, J.
DATED : 18th MARCH, 2015.

P.C.

1. Heard learned counsel for the applicant and learned APP for the Respondent – State.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. no.I-349 of 2014 registered with the Kolsewadi Police Station, Kalyan, Thane, for the alleged offences punishable under Sections 406 r/w 34 of the Indian Penal Code.
3. The aforesaid complaint has been lodged at the instance of one Digambar Shriram Bhamre, the Auditor of the Co-operative Societies,

Kalyan Taluka, Thane. According to the complaint, the erstwhile Managing Committee and the present Managing Committee of which the applicant was the Chairman had alongwith the other co-accused, mis-appropriated a sum of Rs.33,38,153/-from the period 2009 to 2013. It is alleged that different amounts were withdrawn and mis-appropriated by all the accused.

4. Learned Counsel for the Applicant contended that all the erstwhile Managing Committee Members as well as the present Managing Committee Members except the Chairman were granted anticipatory bail. He submitted that infact, the applicant had brought to the notice of the Auditor, the embezzlement of the Society's fund and had requested the Sub-Registrar to block the Society's Account on 30th June, 2013. He submitted that infact, pursuant to the auditor's report which was submitted under Section 83 of the Co-operative Societies Act, a show-cause-notice has been issued to the applicant and others and that under Section 88 of the Co-operative Societies Act, the Registrar can always fix the liability, with regard to the amount so mis-appropriated, by the persons of the Managing Committee. He submitted that the case is essentially based on auditors report and all documents and statement of

accounts are already seized by the police.

5. Learned APP opposed the bail application. He submitted that the applicant's brother had withdrawn an amount of Rs.25,000/- from the Societies Account on 29th December, 2012, by way of a bearer cheque.

6. Perused the papers. It appears that all the documents pertaining to the case have been seized by the police and the evidence is essentially documentary in nature. It also appears, that pursuant to the auditor's report, the registrar of Co-operative Societies has issued show-cause-notices to the applicant and other accused in the present case and the Registrar is competent under Section 88 of the Co-operative Societies Act, to fix the liability that may arise and recover the amounts. Even otherwise, all the erstwhile as well as present Managing Committee members have been granted anticipatory bail. Considering the nature of allegations, the custodial interrogation of the applicant is not necessary as all the documents are in possession of the police authorities. In view of the peculiar facts and circumstances of the case, the applicant deserves to be granted pre-arrest bail on the following terms and conditions ;

ORDER

- i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall attend the Kolsewadi Police Station, Kalyan, Thane, once a fortnight i.e on 1st and 3rd Saturday of every month between 10.00 a.m. to 12.00 noon, till the filing of the charge-sheet ;
- iii) The Applicant shall not tamper or attempt to influence any person concerned with the case ;
- iv) The Applicant shall co-operate in the conduct of the trial.

- 7. The Application is allowed and disposed of in above terms.
- 8. The aforesaid observations are prima-facie, and the Trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
- 9. Parties to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J.)