

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.590 OF 2015

Sachin Shankarrao Joshi & Ors.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....

Mr. Priyal G. Sarda for the Applicants.

Mr. Manoj Gadkari for the Intervener.

Mr. S.S. Pednekar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 27th NOVEMBER, 2015.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicants herein in apprehension of their arrest in Crime No.72 of 2015 registered with Bund Garden Road Police Station, Pune, for the offences punishable under sections 406, 408, 409, 465, 471, 477A and 120B of the IPC.

2. Heard the learned counsel for the Applicants, the learned counsel for the Intervener and the learned APP for the Respondent-State.

3. I have perused the records and considered the submissions

advanced by the learned counsel for the respective parties.

4. It is alleged that the Applicants had misappropriated the funds of the firm by manipulating the books of the accounts, preparing false invoices and documents and deleting original invoices from the computer system. The records prima facie reveal that the Respondent No.2-complainant had initially lodged a complaint before the EOW on 12.8.2014 alleging that the Applicant No.1 herein, who was one of the partners of M/s. SSZ corporation had fabricated the documents. The Applicants herein had not deposited the amount collected by them from various parties in the funds account. Letter dated 20th April, 2015 reveals that the grievance of the intervener/complainant was enquired into. The amount, which was allegedly misappropriated was stated to be Rs.4.12 lakhs. The Intervener/complainant had stated that he would file a detailed complaint after the audit. In the light of the said statement enquiry was closed on 17.10.2014.

5. The intervener -complainant thereafter filed a private complaint No.1263 of 2015 in respect of the same incident and pursuant to the order dated 13th March, 2015 passed by the learned Magistrate under section 156 (3) of the Criminal Procedure Code the above stated crime came to be registered.

6. The complaint relates to the incident which was allegedly committed between 2011-2014. The complaint is filed in April-2015, after about one month from the date of the audit. The delay in lodging the complaint would negate the need for custodial interrogation. Moreover, the allegations are based mainly on the audit report and the same can be investigated without custodial interrogation. Even otherwise the Applicants are on interim bail since 5.5.2015 and have been co-operating with the investigation. In the facts and circumstances, the decision in **the State of Maharashtra Vs. Esarar Ahmedkha Osmankha & Anr. 2013, ALL MR (Cri) 3984** is distinguishable.

7. Considering the above facts and in view of the discussion supra, the Applicants are entitled for bail on the following terms and conditions.

8. Under the circumstances, the anticipatory bail application is allowed on the following terms and conditions :

- (i) In the event of arrest of the Applicants in Crime No.72 of 2015, registered with Bund Garden Road Police Station, Pune, the Applicants be released on bail

on furnishing bond of Rs.25,000/- (Rupees Twenty Five Thousand only) each in the like amount to the satisfaction of the Judicial Magistrate, First Class, Pune.

(ii) The Applicants to report to the Investigating Officer initially for four days between 10.00 a.m. to 1.00 p.m. and further as and when required by the Investigating Officer for the purpose of the investigation and interrogation.

(ANUJA PRABHUDESSAI, J.)