

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1916 OF 2014

Tushar Ashok Baviskar

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. N. R. Bubna for Applicant

Ms. R. V. Nevton APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 5, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 22/04/2014 in crime no. 32 of 2014 registered at Nashik Rural Police Station for offence punishable under section 409 of Indian Penal Code. Investigation is completed and charge-sheet is filed on 19/07/2014.

2) It is the case of prosecution that on 17/04/2014, Divisional Officer of Melgaon Municipal Corporation lodged a report at the police station that applicant herein was working as Recovery Officer. It was his duty to recover water taxes, house taxes, etc. On 16/04/2014, it was revealed that applicant

ism

had collected total amount of Rs. 11,62,439/-, however, he had deposited only Rs. 7,75,000/-. He had misappropriated amount of Rs. 3,87,439/-. It is further alleged by way of supplementary statement that in the financial year 2013-2014 also, applicant had indulged into similar practices and had committed misappropriation of amount of Rs. 14,00,000/-.

3) Learned counsel for the applicant submits that in respect of previous misappropriations, there is no report filed, nor any action was initiated against the present applicant and he continued to be in service. It is further argued that the bills were audited by the superiors and for more than one year, they had not realized that the amount has been misappropriated. Learned counsel for the applicant submits that it cannot be said that it is an act of a single individual and the other officials also must be involved in the same. However, it is not a matter of consideration as on today, while considering the application for bail filed by the present applicant under section 439 of Code of Criminal Procedure, 1973.

4) Applicant has been charge-sheeted for offence punishable under section

409 of Indian Penal Code. Said offence is triable by Court of Magistrate. Applicant has been in custody since 22/04/2014. Investigation is completed and charge-sheet is filed. In view of this, applicant deserves grant of bail. Observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 50,000/- and one or two solvent sureties in the like amount.
- (iii) Applicant shall report to concerned police station on every Sunday between 10.00 am to 12.00 noon, till the conclusion of trial.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)