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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1070 OF 2016

Amitkumar Hiranman Mahale

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr Mukul S. Kulkarni, Advocate for applicant;
Mrs R.K. Ladda, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 29th February, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant is seeking pre-arrest bail, in connection with C.R. No.216 of 2014, registered with Dhule City Police Station, Dhule, for offences punishable under sections 420, 406, 465, 467, 468, 469, 471, 473 read with section 34 of the Indian Penal Code.

2. The case of the prosecution is that the complainant Sunil Prabhakar Deshmukh, who is a civil contractor by profession, entered into an agreement with accused Shivaji Shenpadu Khairnar, for construction of his house.

(2)

3. The Bank of India, Dhule Branch had sanctioned housing loan in favour of said accused Shivaji. Having regard to the progress of the construction work, the amount was paid by account payee cheque in favour of complainant Sunil Prabhakar Deshmukh, i.e. the contractor. It is claimed in the application under section 156 (3) of the Code of Criminal Procedure, that the present applicant – Bank Manager, has abetted the offence of issuance of cheque, which was drawn in the name of the complainant and facilitated the accused persons for opening an account in the name of the complainant.

4. While trying to make out a case for grant of pre-arrest bail, Mr Kulkarni, learned Counsel appearing on behalf of the applicant, would urge that the applicant is a public servant, presently posted as a Branch Manager, Bank of India, at Mumbai. It is further claimed that the other accused persons are already released on pre-arrest bail and has invited attention of this Court to the order dated 15th April, 2015, passed by this Court in Criminal Application No.1690 of 2015. He would then urge that the only role attributed to the applicant is that of handing over the cheque and as such, custodial interrogation of the applicant is not necessary.

5. Learned Addl. Public Prosecutor opposed the application on the ground that custodial interrogation of the applicant is necessary, in order to find out the role played by him in commission of the crime in question.

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6. Perused the investigation papers and the order dated 15th April, 2015, passed by this Court in Criminal Application No.1690 of 2015. It is required to be noted from the complaint filed before the Judicial Magistrate First Class, that a very limited role is attributed to the applicant, i.e. to the extent of handing over cheque. The opening of account in the name of the complainant and operation thereof by the other accused persons is also required to be noted. As the main accused Shivaji is ordered to be released on pre-arrest bail by this Court, by order dated 15th April, 2015. in my opinion, the applicant is entitled to be released on pre-arrest bail. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.216 of 2014, registered with Dhule City Police Station, Dhule, for offences punishable under sections 420, 406, 465, 467, 468, 469, 471, 473 read with section 34 of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.10,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially on 6th March, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

Having regard to the posting of the applicant at Mumbai, in case if further attendance of the applicant is required, it is expected of the Investigating Officer to give 48 hours notice to him.

(4)

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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