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

CRIMINAL APPLICATION NO.2338 OF 2016

Prakash Dayaram Patil

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr Vinod P. Patil, Advocate for applicant;
Mr C.V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 24th June, 2016

ORAL ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.231 of 2015, registered with Chalisgaon police station, Chalisgaon, District Dhule, for offences punishable under sections 408, 409, 420, 467, 468, 471 read with section 34 of the Indian Penal Code.

2. The complainant is an employee of Maharashtra State Khadi va Gramodyog Mandal, (for brevity 'Mandal') a statutory corporation, run by the State Government. A scheme for providing financial aid to the prospective industrialists was floated by the Government for small industries under the Mandal, pursuant to which a person seeking such aid was to contribute 5% to 10% of project cost, the Government was to provide 25% to 30% margin money and the Bank was to finance 60% to 65% loan.

(2)

3. It is alleged that without ascertaining position as to providing margin money, the applications for aid were processed and though on record, the amount was shown to have been disbursed, which in fact, was embezzled.

4. In the above background, learned Counsel appearing on behalf of the applicant submits that the applicant is a Manager of the co-operative Bank through which the amount was disbursed. According to him, custodial interrogation of the applicant is not necessary, as the amount of defalcation is already deposited by the industrialists who along with the Directors of the Bank are already protected by granting pre-arrest bail.

5. Learned Addl. Public Prosecutor opposed the application on the ground that, when the Mandal, which provides for aid had deputed a representative for inquiring into the account of the bank, the present applicant had not co-operated. He would then submit that custodial interrogation of the applicant is necessary.

6. Having bestowed my thoughts to the submissions made, it is noted that the investigation is at quite advanced stage. The offences alleged to have been committed by the applicant are punishable under sections 408, 409, 420, 467, 468, 471 read with section 34 of the Indian Penal Code.

7. The role attributed to the applicant appears to be of disbursing the amount in the capacity of Manager. The allegation is, the margin money was not deposited, which is subsequently deposited by the concerned beneficiaries.

(3)

8. Having regard to the stage of investigation, in my opinion, custodial interrogation of the applicant will hardly be of any necessity, as the entire investigation is based on the documents, which are in custody of the Investigating Officer.

9. In view thereof, in my opinion, it will be appropriate to order release of the applicant on pre-arrest bail. I, therefore, pass following order:-

In the event of arrest of the applicant, in connection with C.R. No.231 of 2015, registered with Chalisgaon police station, Chalisgaon, District Dhule, for offences punishable under sections 408, 409, 420, 467, 468, 471 read with section 34 of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicant shall attend the concerned police station from 4th to 7th July, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

The applicant shall not tamper with the prosecution witnesses or documentary evidence.

The applicant shall co-operate in the investigation and shall also not protract the trial and shall attend the court proceedings regularly.

(4)

Any default on the part of the applicant would entail the Court below, taking up the trial, to proceed for cancellation of bail.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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