

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

**Criminal Application No.4032 of 2016
In
Criminal Application No.828 of 2015**

Umesh s/o Balkisan Agrawal. .. **Applicant.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. Amol N. Kakade, Advocate, for applicant.

Shri. A.P. Basarkar, Additional Public Prosecutor, for
respondent.

CORAM: T.V. NALAWADE, J.

DATE : 29 AUGUST 2016

ORDER:

1) The application is filed for modification of the order dated 5-3-2015 made by this Court in Criminal Application No.828 of 2015. This Court has directed the present applicant to deposit amount of Rs.3.5 crores, which is Government money and which is misappropriated by the present applicant, for getting bail. Both the sides are heard.

2) This Court had imposed similar conditions on other similarly placed accused persons. One of such accused, Dinesh had challenged the order made by this Court by filing Petition for Special Leave to Appeal (Criminal) No.7075/2014 but the Hon'ble Apex Court dismissed the said petition by order dated 8-10-2014.

3) This Court has considered the material available as against the present applicant for proving the offences punishable under sections 406, 408, 409, 420, 467, 468, 470, 34 etc. of the Indian Penal Code. He had collected the VAT from cooperative spinning mills which had purchased cotton from him. But the VAT collected was not deposited with the Government and it was misappropriated. As per Government scheme, the society was entitled to get refund of the VAT amount after producing relevant record and when one such society applied for getting refund of the VAT amount, it transpired that the VAT amount collected by the applicant was not deposited with Government and it was misappropriated. It also transpired that he had created some false record regarding the payment. He had created many firms and by

using the same modus operandi he has duped the Government in crores of rupees. In view of these circumstances, the aforesaid condition came to be used.

4) The learned counsel for the applicant submitted that, the applicant is not in a position to deposit the amount and he may deposit at the most Rs.50 lakh and he prayed for granting bail by modifying the order. This proposal cannot be accepted. These days persons like present applicant accused, leave the country any how after getting bail. Such persons have made property in foreign countries. These persons are then never available for trial. In any case, unless and until the Government money which is public money is recovered such persons cannot be granted bail. Such money is treated as stolen property under section 410 of the Indian Penal Code. This Court holds that no change in circumstance is brought to the notice of the Court. Further there is order of the Apex Court in the SLP mentioned above. In the result, the application stands rejected.

Sd/-
(T.V. NALAWADE, J.)

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