

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

Criminal Application No. 5231 of 2016

District : Hingoli

Baliram s/o. Tulsiram Patange,
Age : 30 years,
Occupation : Service,
R/o. Sukali Bk.,
Taluka : Sengaoon,
District : Hingoli.

.. Applicant.

versus

1. The State of Maharashtra,
Through Police Station Officer,
Hingoli Police Station (City),
District : Hingoli.

2. The Superintendent of Police,
Hingoli,
District : Hingoli.

.. Respondents.

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*Mr. S.B. Talekar, Advocate, instructed by
Talekar & Associates, for the applicant.*

*Mr. S.P. Sonpawale, Addl. Public Prosecutor,
for respondent nos.1 and 2.*

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CORAM : A.M. BADAR, J.

DATE : 3RD OCTOBER 2016

ORAL ORDER:

The applicant / accused in Crime No.
301/2016 registered with Hingoli City Police Station,

District Hingoli, for offences punishable under Sections 406, 409, 418, 420, 467, 468, 471, 477A, 120B read with Section 34 of the Indian Penal Code, by this application is seeking pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. The learned Counsel argued that the applicant has resigned from the post of Divisional Officer on 29.01.2015. Thereafter also, as seen from the document at page 28 of the record, that a locker was operated and gold of one of the customer was returned. The learned Counsel argued that vouchers were filled in when the cash was used to be taken by the present applicant for depositing in another Branch. By pointing out vouchers filed with the instant application, the learned Counsel argued that those vouchers does not bear signature of the present applicant and the complaint in that regard is belatedly filed. The learned Counsel further argued that vehicle loan was sanctioned by Manager of the head office, as seen from the order dated 19.02.2015 and then one of the customer has made down payment. The learned Counsel argued that the letter dated 15.07.2015 of the Bank Manager shows that one of the customer has refused to take vehicle loan. With this, according to the learned Counsel for the applicant, custodial interrogation of the present applicant is not warranted.

3. The learned Addl. Public Prosecutor opposed the application by contending that the crime in question is registered on the basis of the report of the Chartered Accountant showing misappropriation by employees of the Society.

4. Perused papers of investigation including the FIR. According to the prosecution case, the applicant was working as Divisional Officer with Lokmangal Multi-State Co-operative Society Ltd., Solapur [**For short, "the Society"**]. He was also in-charge of Hingoli Branch of the said Society. It is averred that after conducting audit and physical verification, Chartered Accountant of the Society has submitted his report on 27.01.2015. The FIR is lodged on the basis of the said report.

5. Perusal of papers of investigation shows that the Society used to grant loans by accepting pledge of gold. During inspection, it was found that during tenure of the present applicant, gold loan was granted to the account holders of Gold Loan Account Nos.06, 33, 34, 39, 40, 41, 47 and 48. During physical verification of locker, pledged gold was not found and this act is attributable to the applicant as this loan was disbursed when he was the in-charge of Hingoli Branch. It is also averred in the FIR, that an amount of Rs. 2,75,000/- was taken by the applicant for deposit in other Branch but that amount

is not actually deposited. Perusal of the vouchers pointed out by the learned Counsel for the applicant do show name of the present applicant as a person who have taken that amount. This is reflected from the vouchers at pages 34 and 35 of the paper-book. Therefore, at this stage, it cannot be said that the applicant had not received that amount and he is falsely implicated. These aspects are sufficient to hold that in the crime in question where money of the investors is misappropriated, custodial interrogation of the present applicant is warranted. Ultimately recovery will have to be effected and for that purpose, custodial interrogation will be qualitatively more active.

6. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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