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

CRIMINAL APPLICATION NO.5489 OF 2016

Arjun s/o Uttam Varade,
Age: 39 years, Occu: Business,
R/o. Shahnurwadi, Aurangabad ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr. R. N. Dhorde, Sr. Advocate h/f. Mr. V. R.
Dhorde, Advocate for applicant;
Mr V. S. Badakh, Add. Public Prosecutor for
respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 29th NOVEMBER, 2016

ORAL ORDER :

Heard.

2. By the present application filed under Section 439 of the Code of Criminal Procedure, the applicant seeks his release pursuant to his arrest in connection with Crime No. 72 of 2016 registered at Vazirabad Police Station, District Nanded for offences punishable under Sections 406, 409, 477-A, 420 read with Section 34 of the Indian Penal Code.

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3. According to the FIR dated 11/5/2016, the Senior Manager of Electronic Payment and Services Pvt. Ltd. stated that said company was in the business of making available A.T.M. machines and providing services in that regard. For the said purpose, it had entered into a service agreement with one Active Secure Management Pvt. Ltd. The agreement in that regard was signed by the informant and by the present applicant on behalf of the said Active Secure Management Pvt. Ltd. At Nanded District, about 83 A.T.M. machines were being serviced since June – 2013. According to the informant, the present applicant had sent an E-mail from the site of another employee Shri Sachin Ahirrao, giving instructions to yet another employee Shri Rushikesh that 8 A.T.M. machines of the informant company should be returned and an amount of Rs.47,50,000/- should be shown less. This E-mail was accessed by the informant-company. After verifying the accounts, initially no difference could be found but subsequently, it was noticed that about 6 authorized custodians working with Active Secure Management Pvt. Ltd. had

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committed some misappropriation to the tune of Rs.50,18,900/-. On that basis, aforesaid report came to be lodged.

4. Shri Dhorde, learned Senior Counsel for the applicant submitted that the applicant had been arrested merely on the basis of an alleged E-mail message said to have been sent by the applicant. Said E-mail was alleged to have been sent from the site of another employee, giving instructions to yet another employee. As per the FIR, the authorized custodians named in the report, were alleged to have committed the misappropriation. It was submitted that applicant was arrested on 24/5/2016 and after completing the entire investigation, the chargesheet has now been filed. In these facts, it is submitted that as nothing further remains to be done in the matter and as the trial would take some time to complete, the applicant deserves to be enlarged on bail.

5. Shri Badakh, learned Additional Public Prosecutor for the State opposed the aforesaid

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application. According to him, considering the gravity of the offence and the amount involved, the applicant does not deserve to be granted bail. The applicant was a responsible officer of the said company, which had been granted agency by the complainant. Considering these facts, it was submitted that the Application deserves to be rejected.

6. Perused the FIR as well as the chargesheet. The allegation against the present applicant is with regard to sending of E-mail message from the site of one of its employees to another employee. The act of misappropriation is alleged to have been committed by 6 authorized custodians, who were in charge of the A.T.M. machines. Considering the fact that the prosecution is based on documentary evidence, which has been collected and after completion of said investigation, the chargesheet has been filed, I do not find any justifiable reason to continue the pre-conviction detention of the applicant.

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7. In view of aforesaid, the following order is passed :-

ORDER

(i) The applicant is directed to be released on bail in connection with Crime No. 72 of 2016 registered at Vazirabad Police Station, District Nanded for offences punishable under Sections 406, 409, 477-A, 420 read with Section 34 of the Indian Penal Code, on furnishing P.R. bond of Rs. 20,000/- (Rs. Twenty Thousand) with one surety in the like amount.

(ii) He shall attend the learned Sessions Court, Nanded on 15th December, 2016 and thereafter, as per directions of the learned Sessions Court.

(iii) He shall co-operate in the completion of the trial and shall not take any steps to influence the prosecution witnesses.

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8. The observations made in the present order are only for deciding the present application.

9. Criminal Application is allowed in above terms and disposed of.

(A.S. CHANDURKAR, J.)

arp/-