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

CRIMINAL APPLICATION NO. 5825 OF 2016

Apeksha w/o Vivek Pande,
Age: 50 years, Occu: Service,
R/o: Near J.D.C.C. Bank, Bodvad,
Tq. Bodvad & Dist. Jalgaon ..APPLICANT

VERSUS

1. The State of Maharashtra

2. The Police Inspector,
Police Station, Bodvad,
Tq. Bodvad & Dist. Jalgaon ..RESPONDENTS

Mr R. S. Sarvadnya, Advocate for applicant;
Mr C. V. Dharurkar, Addl. Public Prosecutor for respondents;
Mr N. N. Jagdale, Advocate holding for Mr V. D. Salunke, Advocate to assist Addl. Public Prosecutor

CORAM : A.S. CHANDURKAR, J

DATE : 14th December, 2016

ORAL ORDER :

The applicant apprehends her arrest in connection with the C.R. No.43 of 2016, registered at Bodwad Police Station, Taluka Bodwad, District Jalgaon, for offences punishable under Sections 409, 420, 406, 467, 471, 477-c of the Indian Penal Code.

2. As per the first information report lodged by the Banking Officer of Jalgaon District Central Co-operative Bank Limited, Jalgaon, it was noticed that at the Bodwad branch of the said bank, certain financial irregularities

were reported by its account holders. In that regard, the bank held an inquiry and after considering the complaints received from its account holders, the Enquiry Officer had found that the applicant herein had committed misappropriation for an amount of Rs.72,14,322/-. On that basis, the aforesaid report came to be lodged.

3. It is submitted by the learned Counsel for the applicant that the applicant has been booked without any justifiable cause. The applicant was holding the post of Clerk at the said branch and, therefore, it was not possible for her to clear various withdrawals at the instance of account holders. Merely with a view to shield higher officers, the present applicant had been implicated. It is submitted that the applicant is having a good service record for last more than 25 years and there were no earlier complaints against her. It is then submitted that the entire case of the prosecution is based on documentary material which is already in custody of the bank. There was no possibility whatsoever of applicant tampering with this material and hence, there was no need whatsoever of her custodial interrogation. It was, therefore, submitted that the applicant was entitled for relief.

4. The application is opposed by the learned Addl. Public Prosecutor by relying upon the police papers. It is submitted that *prima facie* involvement of the applicant is evident from the findings recorded in the departmental inquiry. Considering various complaints made by account holders wherein they have stated that the amounts in question were given

to the applicant, she does not deserve to be granted any relief.

The learned Counsel for the informant, while assisting the prosecution, referred to the inquiry report as well as various audit reports to indicate financial misappropriation at the instance of the applicant. It was also submitted that various amounts were deposited by the applicant in her own account and this was clear from the extract of her accounts. For the purposes of proper inquiry, her custody was necessary. He, therefore, opposed the aforesaid application.

5. With the assistance of learned Counsel for the parties, I have perused the material on record. The Bank, after receiving various complaints from its account holders had held a Departmental Enquiry in which the applicant was found responsible for financial misappropriation. This inquiry was held after recording statements of account holders and after considering relevant records of the Bank. The report of the Auditor also supports the *prima facie* conclusion of the inquiry proceedings that the applicant was responsible for aforesaid financial misappropriation.

6. Merely because the records have been seized by the prosecution and the material is in the custody of the Bank, that by itself would not be a ground in favour of the applicant. There is *prima facie* material to indicate the fact that though the applicant was holding the post of Clerk, she had cleared various withdrawal slips, which was not within her jurisdiction. The complicity of the applicant is evident. Considering the observations made

in the inquiry report which are supported by written complaints of various account holders and the transactions reflected in the account of the applicant, I am not inclined to consider the present application favourably.

7. By clarifying that observations made in this order are only for deciding the present application, same stands dismissed.

8. Interim relief granted by this Court on 15th November, 2016 shall continue for a period of four weeks from today and shall cease to operate automatically thereafter.

[A.S. CHANDURKAR]
JUDGE

amj