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

CRIMINAL APPLICATION NO.5986 OF 2016

Kashinath Baliram Mahajan,
Age: 45 years, Occ: Agri.,
R/o. Kandari, Tq. & Dist. Jalgaon. ..APPLICANT

VERSUS

The State of Maharashtra
Through the Police Inspector,
Nashirabad Police Station,
Nashirabad, Tq. & Dist. Jalgaon. ..RESPONDENT

Mr V.B. Patil, Advocate for applicant;
Mr S.D. Ghayal, Addl. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 24th NOVEMBER, 2016

ORAL ORDER :

The applicant apprehends his arrest in connection with Crime NO. 48 of 2016 registered with Nashirabad Police Station, Nashirabad, Taluka and District Jalgaon, for offences punishable under Sections 420 and 406 of the Indian Penal Code.

2. According to first information report that is lodged on the basis of audit conducted by

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the Special Auditor, the loans that were sanctioned by treating certain lands as dry crop were actually disbursed by treating said lands as irrigated. The loan amounts that were actually credited in the accounts of about 16 borrowers were lesser than the amounts that were actually sanctioned. Present applicant as a Chairman of Nutan Kandari Vividh Karyakari Co-operative Society Limited and Secretary Ishwar Sangore are alleged to have committed aforesaid acts resulting in lesser benefit being received by the farmers. On that basis, notice under Section 81 of the Maharashtra Co-operative Societies Act, 1960 (for short, the said Act) came to be issued and the present prosecution came to be lodged.

3. It is submitted by the learned Counsel for the applicant by relying upon the provisions of Sections 73 and 89 of the said Act that the liability of the present applicant under the provisions of the said Act is yet to be determined and prior thereto, offence in question has been registered. It is submitted that only because the

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applicant is a Chairman of the Society, he has been implicated. It is submitted that on bare perusal of the first information report, there is no allegation of misappropriation against the present applicant. In the alternate, it is submitted that the applicant is willing to deposit the amount of Rs.11,00,000/- as found to be the amount of misappropriation.

4. The application is opposed by learned Additional Public Prosecutor by relying upon the police papers. He has referred to the statements of various account holders to indicate that though larger amount of loan was sanctioned, lesser amount was credited in their accounts. There are about six statements to that effect. It is, therefore, submitted that considering material available against the present applicant, he does not deserve protection from arrest.

5. Perused the police papers. It can be seen *prima facie* from the various statements as recorded that though a higher amount of loan was sanctioned

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to each account holder, the actual amount that was credited in their accounts was lesser. It is grievance of each farmer that balance amount has been retained by the applicant and Secretary Sangore.

6. Though it is true that notice under Section 81 of the said Act has been issued to the present applicant and proceedings in that regard are pending, the same however cannot be ground, on the basis of which it can be said that criminal prosecution cannot be lodged. Considering the material available on record, at this stage, I do not find that the applicant has made out a case for grant of protection. In view of aforesaid, I am not inclined to consider the application favourably. The application is rejected. The observations made in this order are only for considering the present application.

(A.S. CHANDURKAR, J.)