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

CRIMINAL APPLICATION NO.6653 OF 2016

Anil s/o Ramrao Khande,
Age : 41 years, Occu. Service,
R/o Pimpalgaon, Tq. & Dist. Beed ..APPLICANT

VERSUS

The State of Maharashtra,
Through Police Station Beed (Rural),
Tq. & Dist. Beed ..RESPONDENT

Mr S.J. Salunke, Advocate for applicant;
Mr A.D. Namade, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 20th December, 2016

ORAL ORDER

Heard.

2. The applicant apprehends his arrest in C.R. No.205 of 2016, registered at Police Station Beed (Rural), Tq. & Dist. Beed, for offences punishable under Sections 420, 467, 468, 471 and 409 of the Indian Penal Code.

3. The first information report has been lodged by the Liquidator of one Shri Gajanan Rural Non Agricultural Credit Co-operative Society Ltd., Rajuri, dated 21st October, 2016 in which it has been stated that said society was under the process of liquidation. After taking charge of affairs of the society, it was noticed that there was some financial

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mismanagement of the affairs of the said society. It was found that the dues that were payable to certain depositors had remained unpaid and on the basis of the documents collected there was a prima facie case against the present applicant.

4. The learned Counsel for the applicant submitted that the applicant has been singled out for being proceeded against despite the fact that he was only the Secretary of the said society at the relevant time. He referred to the Bye-laws of the aforesaid society to submit that the responsibility for its affairs was also on the Board of Directors. Reference was made to the provisions of Section 73 of the Maharashtra Co-operative Societies Act as well as the Circulars dated 10th January, 2008 and 10th October, 2010 to indicate that the entire body was responsible for such financial mismanagement. Reference was made to the audit report for the period from 1st April, 2011 to 31st March, 2013 to indicate the lacuna found therein. According to the learned Counsel for the applicant, no appointment order was ever issued to the applicant, but still he was held responsible as Secretary of the society. It was, therefore, submitted that by excluding all other office bearers as the applicant alone has been implicated, he deserves to be protected.

5. The application is opposed by the learned Addl. Public Prosecutor by relying upon police papers. He has referred to various statements of depositors in which it has been stated that the brother of the applicant was acting as a Pigmy Agent of the society and was collecting deposits which

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were then handed over to the applicant for investment. He has referred to the fixed deposit receipts signed by the applicant alone and issued in the name of the society. It is submitted that considering aforesaid material on record, no case for protection has been made out.

6. I have perused the documents filed on record along with the police papers. As per the first information report, after considering the records of the society, the Liquidator has found that the applicant was in-charge of the affairs of the society. He found that the Chairman of the society had given a communication in which it was stated that the applicant had prepared false documents to indicate his removal from the post of Secretary. On perusal of the statements of the various depositors along with fixed deposit receipts issued by the applicant under his signature, I find that there is *prima facie* material against the applicant, on the basis of which he is not entitled for interim protection. The aspect as to fixation of liability and effect of provisions of Section 73 of the Maharashtra Co-operative Societies Act and Bye-laws of the society are aspects to be considered at a later stage. In the facts of the present case and the material relied upon by the prosecution, I do not find that any case is made out to grant protection.

7. By observing that the application has been decided by taking a *prima facie* view, same is rejected.

(A.S. CHANDURKAR, J.)

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