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

CRIMINAL APPLICATION NO. 7017 OF 2015

Sheshkumar S/o Dnyanoba Jagtap ...APPLICANT

VERSUS

The State of Maharashtra ...RESPONDENT

Mr S. S. Thombre, Advocate for applicant;
Mr S. Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 28th January, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.358 of 2015, registered with Police Station, Osmanabad (City) on 16th October, 2015, for an incident that has occurred between April, 2014 and 11th May, 2015, for offences punishable under sections 403, 406, 409, 420 of the Indian Penal Code, for an incident.

2. The crime came to be registered pursuant to the first information report lodged by the Assistant Manager of NAFED, claiming that there was a loss of 301 bags each containing 50 Kgs. of Tur and the quality of 785 bags each containing 1 Qtl. Tur, was tampered with.

3. Mr Thombre, learned Counsel appearing on behalf of the applicant, while trying to make out a case for grant of bail, would urge that the present applicant, for the first time, was given complete charge of the

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godown in question, pursuant to the transfer order dated 15th April, 2015 at Osmanabad and he had taken charge of the said post on 24th April, 2015. Mr Thombre then would urge that prior to the taking over the charge on 24th April, 2015, the applicant had hardly any control/possession of the stock in question. He would then urge that after assuming the charge, he has inspected the godown and has submitted a protest letter pointing out the above referred short-fall. According to him, already an offence bearing C.R. No.80 of 2015, in relation to 301 bags was registered on 15th March, 2015, at the behest of the office of the Maharashtra Warehousing Corporation. He would then urge that the applicant cannot be held responsible for the alleged short-fall of Tur bags. He, therefore, prayed to order release of the applicant on pre-arrest bail.

4. Learned Addl. Public Prosecutor, while opposing the application, would urge that what is covered under C.R. No.80 of 2015 is in relation to short-fall of 301 Tur bags, whereas tampering with quality of 785 Tur bags is not an issue covered under the earlier crime. He would then urge that the applicant was in-charge of the godown since March, 2015 to the date of his transfer to Jalgaon, i.e. around 13th May, 2015 and as such, he also could be held responsible for mismanagement of the stock.

5. With the assistance, I have perused the papers submitted by the applicant along with the application and the investigation papers. From the record, it depicts that the issue as regards shortage of 301 Tur bags is already covered under C.R. No.80 of 2015. Apart therefrom, it could easily

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be inferred from the record that the applicant herein has taken charge of the godown at Osmanabad on 24th April, 2015, after his transfer on the said post and at the earliest point of time, has drawn a panchnama, intimating about the short-fall of the stock, including 301 bags of Tur.

6. Looking to the above referred aspects of the matter, in my opinion, it is really hard to believe that the applicant is *prima facie* involved in commission of the crime in question.

7. In that view of the matter, the applicant is entitled to be enlarged on pre-arrest bail. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.358 of 2015, registered with Police Station, Osmanabad (City), for offences punishable under sections 403, 406, 409, 420 of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall attend the concerned police station, initially from 8th to 10th February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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