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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1055 OF 2016

Salehabegaum M. Jalil Bhokare .... Applicant
V/s.
The State of Maharashtra .... Respondent

Mr. Kuldeep U. Nikam, for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 30th JUNE, 2016.

P.C. :

1. The applicant accused, in Crime No.04 of 2014, for the offence punishable under Sections 409 and 420 of the Indian Penal Code, registered with Miraj Police Station, District: Sangli, by this application is praying for pre-arrest bail.

2. Heard the learned counsel for applicant. He argued that the period of alleged misappropriation is from 24.4.2012 to 16.9.2013. According to the learned counsel for applicant, the entire case of prosecution is based on documentary evidence and therefore, custodial interrogation of applicant is not at all warranted. He further argued that when applicant got intimation about alleged misappropriation, her father

under protest deposited amount of Rs.1,00,000/-. The applicant had by that time suffered paralytic attack. It is further argued immediately after recovery, the applicant had from time to time given explanation to the Tax Superintendent wherein she has clarified that the job of deposing amount was with peon of the Municipal Corporation. She had further pointed out that the employee namely Amar Ankalgi had not deposited receipt books with her. It is further argued that the applicant is disputing her liability and even the Municipal Corporation after suspending her has reinstated her in service.

3. I also heard the learned APP, who opposed the application by contending that subsequently it is found that there is forgery, apart from increase in the amount of misappropriation. Perused the papers of investigation and F.I.R. in question is lodged by Incharge Assessor and Tax Collector working with Sangli Miraj Kupwad Municipal Corporation. The matter of alleged misappropriation came to the notice of Municipal Corporation on a complaint of one Shivprakash Swami. He reported the Corporation that though he deposited the amount of taxes, necessary posting in the account books of the corporation is not done. Upon enquiry by the Corporation, it was initially noticed that instead of depositing an amount of Rs.3,12,421/- towards tax collection, only an amount of Rs.2,12,421/- is deposited in the bank account of the corporation. Upon

notice, it is seen that the father of present applicant had deposited the balance amount of Rs.1,00,000/- in account of the corporation. As reflected from the F.I.R. that cash book of the corporation was checked after the Municipal Commissioner had sanctioned for lodging F.I.R. against present applicant. In the subsequent checking of the cash book, it was found that though the amount collected towards tax as per cash book was Rs.15,17,790/-, same was not deposited the bank account of the corporation. F.I.R. shows that present applicant is serving in the corporation as clerk in tax Assessment Department. The authorised officer of the corporation in the F.I.R. has stated that the work of issuance of receipt book to other employees, work of collecting the amount of tax collected by the employees and the work of depositing amount so collected in the bank account of the corporation, were the job entrusted to the present applicant.

4. F.I.R. further reveals that by not depositing amount of tax collected from tax payers, present applicant has misappropriated an amount of Rs.15,17,790/-, apart from it late deposit of Rs.1,00,000/-. It is seen from the papers of investigation that subsequently entire record was checked by the Chief Finance and Accounts Officer. It is revealed in the internal audit that from the years 2011-12 to 2013-14, there is misappropriation of Rs.17,33,299/-. This amount was collected from tax

payers, but it was not deposited in the accounts of the Municipal Corporation.

5. The applicant has no doubt disputed her liability by stating that the job of depositing amount in the bank was with peon. However, F.I.R. lodged by the authorized officer by the Municipal Corporation is clear on this aspect. Applicant cannot pass the buck to the peon. Similarly it is seen that during the course of investigation, offence of forgery is found to have been committed. The statement of Manager of the bank is pointing out this aspect.

6. The offence alleged against present applicant is economic offence which has serious repercussion on the economy of the Municipal Corporation. It is matter of common knowledge that most of Municipal Corporations in the Maharashtra are cash starved and they are not even in position to pay retiral and pension benefits of ex-employees.

7. Considering the financial scam and the role attributed to the applicant in the crime in question, no case for anticipatory bail is made and therefore application is rejected.

[A. M. BADAR, J.]