

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1428 OF 2016

Santosh Shankar Shinde

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Rameshwar N. Gite Advocate for Applicant.

Mr. Vinod Chate APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 8, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 133 of 2016 registered at Ghoti police station, Nashik for offence punishable under sections 420, 406, 408, 409, 465 of the Indian Penal Code.

2) It is the case of the prosecution that on 02/07/2016, Sanjeev Shinde who was appointed as Administrator of Shaineshwar Gramin Bigar Sheti Sahakari Pat Sanstha (Hereinafter referred as "Credit Society") lodged a report at the police station alleging therein that pursuant to the orders passed by the Assistant Registrar, Co-operative Societies, Igatpuri dated 10/02/2016,

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he had taken charge of administration of the credit society on 17/02/2016. From 18/02/2016, present Applicant, who was working as a manager of the said credit society, had not attended his duties. The administrator had noticed that it was the duty of the manager to maintain the locker of the credit society, accept the ornaments and other valuables from the creditors, disburse loan and return the said articles after fulfillment of the loan amount. That it was also noticed that the duties were shared with one Mr. Sudhakar Dargade. The first informant was to open the locker to verify the contents of the locker as several complaints were received in respect of administration of the said co-operative society. Applicant, who was working as a manager and was a custodian of the locker, could not be contacted as he was out of reach.

3) By a registered letter dated 04/03/2016, directors, manager and other staff was called upon to remain present on 14/03/2016. The directors remained present, however, the applicant chose not to remain present. The locker was opened. The golden ornaments which were allegedly hypothecated with the credit society were not found in the locker of the society. Similarly, it was noticed that several vouchers were missing. Some vouchers were thrown off. Upon enquiry, it was revealed that bogus loan proposals were made and

loans were sanctioned by managing body on the basis of recommendation of the applicant.

4) The learned counsel for the applicant submits that applicant is innocent and is working sincerely for 19 years. He shared his duties along with one Mr. Dargude. It is also submitted that the applicant, in the capacity of the manager was only executing the orders passed by the managing body and had no role to play in the sanctioning or disbursing the loans.

5) As against this, the learned APP, on the basis of papers of investigation has submitted that the loan proposals were tendered before the manager. The genuineness of the loan proposals were to be verified by the manager and were to be placed before the managing body for sanctioning. It is submitted that at the threshold itself, the manager had prepared the bogus loan proposals in fictitious names. They were unsecured loan proposals. Since the applicant had been working for long time, the managing body had placed trust in him and he has committed breach of trust. The loan proposals were sanctioned and the applicant who had submitted the bogus loan proposals has been a beneficiary. It is also submitted by the learned APP that in many cases, either no gold or any other valuables was mortgaged and yet loan was sanctioned

and disbursed and in some cases the valuables were not worth the loan proposals. The learned APP submits that it cannot be said that the managing body is solely responsible as they had placed implicit faith in the manager who has committed breach of trust. The public money has been lost. Hence, custodial interrogation is imperative.

6) Taking into consideration the nature of allegations, papers of investigation and the request of the learned APP, Application being sans merits, stands rejected.

7) However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

(SMT. SADHANA S. JADHAV, J.)