**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.176 OF 2017

Shri Raju Anajanaya Masaraj ... Applicant

Vs.

The State of Maharashtra .. Respondent

Mr.U.R. Mankapure for the Applicant
Ms.S.S. Kaushik, APP, for Respondent – State
Mr.Rajendra More, P.I., Vishrambag police station, Sanlgi-present

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 23, 2017

P.C. :

1. The application is moved for pre-arrest bail as the applicant/accused is prosecuted for the offence punishable under sections 408, 420, 381 r/w section 34 of the Indian Penal Code in C.R. No.216 of 2016 registered with Vishrambaug police station, Dist. Sangli. The complaint is given by one Balasaheb Daingade, was working as a Special Auditor in the office of Registrar of Cooperative Societies, District Sangli. It is the case of the prosecution that he was appointed as an Auditor for a period of three years from 1.4.2013 to 31.3.2016. So, he wanted necessary documents. At that time, he demanded the documents from

accused No.1 James Emmanuel William, the Secretary of the Society i.e., Wanless Chest hospital Employees Cooperative Credit Society. However, the Secretary did not supply the record and did not cooperate, though time to time, request was made from the complainant. The co-accused James William informed that those records were stolen and he has given complaint in 2010 about the same. Then, the complainant had to obtain some record through the police under panchanama dated 24.6.2015 from different places. After going through these documents, still some record is to be recovered, however, on the basis of the record, which was made available, the complainant examined the accounts and he found that the Secretary Mr.James Williams has withdrawn an amount of Rs.7,70,000/- for himself from the account of the society and the present applicant, who was working at the relevant time as a Chairman of the society has withdrawn the amount upto Rs.1,01,000/- and, therefore, the case was registered against the the accused for criminal breach of trust and cheating.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused was working as a Chairman in the society in the year 2015. When the new body was elected in

March, 2015, they started examining the accounts. The learned Counsel submitted that the main allegations are against the Secretary, who has committed fraud and cheating. The applicant/accused is innocent and he has not committed any offence. He being the Chairman, was not involved in the day to day affairs of the accounts of the society. He has signed the cheques and those cheques were kept with the Secretary. The learned Counsel further submitted that the applicant/accused is in the custody since 20.12.2016 and he is ready to deposit the amount of Rs.1,01,000/-, under protest, which is the amount of alleged falsification of the applicant/accused.

3. Learned Prosecutor has opposed the application. She submitted that chargesheet is not filed and the investigation is going on. She submitted that the withdrawals cannot be made by cheque only with the signature of one person i.e., the Secretary but two signatures i.e., of the Secretary and the Chairman are required. Thus, the amounts were withdrawn with the consent of the present applicant/accused and the principal accused. The learned Prosecutor submitted on instructions from the Investigating Officer, who is present in the Court, that the police are still

investigating the matter and till today, all the accounts could not be recovered by the police. She submitted that still the police are unable to state before the Court as to the depth and width of the offence and yet, all the record is not produced before the police. Therefore, the applicant/accused should not be granted bail.

4. Heard both sides. Perused the complaint and the other papers so also the photocopy of the bank account statements of the society disclosing the withdrawal of the amounts for self and for co-accused James William. After going through the complaint, it appears that the auditor has really faced the problem of recovering the record for auditing. As per the FIR, the report of the Investigating Officer, still the police could not lay hand over all their records. They also want to take the bank account record.

5. It is a case of criminal breach of trust where the public money is involved. Under such circumstances, I am not inclined to grant bail at this stage. Accordingly, the Bail Application is rejected. However, the applicant/accused is given liberty to file a fresh application after filing of the chargesheet.

(MRIDULA BHATKAR, J.)