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

BAIL APPLICATION NO.204 OF 2017

Dr.Shankar Maruti Mali ... Applicant

Vs.

The State of Maharashtra … Respondent

Mr.Umesh R. Mankapure for the Applicant
Mr.Prashant Jadhav, A.P.P., for Respondent – State
Mr.Sandeep Jagtap, API, Warje Malwadi Police Station – present

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: FEBRUARY 15, 2017

P.C. :

1. This application is moved by the applicant/accused for bail under section 439 of Criminal Procedure Code as the applicant/accused is prosecuted for the offences punishable under sections 406, 408, 420, 465, 467, 468, 471 r/w section 34 of the Indian Penal Code in C.R. No.489 of 2016 with Warje Malwadi Police Station, Dist. Pune. It is the case of the prosecution that one Rajaram N. Shelke, was a Special Auditor, who has conducted audit of the years 2000 – 2013 of one society, namely, Vignahar Nagri Sahakari Pat Sanstha Maryadit, Pune, Warje Malwadi,

District Pune. He found that there was a fraud of Rs.2,63,26,947/- and he noticed that the entire fraud of financial irregularities and misappropriation of the amount was committed by the erstwhile board of directors and its Chairman and hence, he registered the offence against the total 16 persons. The applicant/accused is one of the Directors during the period from 1.4.2009 to 31.12.2014. He was arrested on 4.1.2017 and hence, the Bail Application.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused has not committed any offence. He submitted that in all 500 irregularities or cases of misappropriation were found out of which 65 instances are from the years 2009 to 2014 when the applicant/accused was one of the Directors of the Credit Society. He submitted that out of 65 instances, 45 to 50 matters, money is recovered or repaid and there are hardly 16 to 17 cases where the amount was yet to be recovered. He further submitted that the applicant/accused has not proposed for any loan account. He has no criminal antecedents. He is a highly educated person and there is no evidence to show that he is a beneficiary of this fraud. Hence, he be released on bail.

3. Learned Prosecutor while opposing this Bail Application has relied on the complaint so also the criminal report dated 10.10.2016 submitted by one Mr.R.N. Shelke, the Special Auditor. The learned Prosecutor has pointed out that in clause (e), the details of bogus amounts which stand in the name of one Sameer Gaikwad from where Rs.7,46,280/- was withdrawn is shown. The learned Prosecutor submitted that the applicant/accused alongwith the other Directors is vicariously liable for this fraud.

4. Perused the FIR, the relevant portion of the Audit report. The applicant/accused was shown as one of the Directors for the period from 1.4.2009 to 31.12.2014. The applicant/accused being a Director during that period, may be liable for the financial liabilities and the misappropriation of funds committed in the credit society at the relevant time, however, it appears that the prosecution is not in a position to show any nexus between the applicant/accused and the misappropriated amount that he is a beneficiary of the amount. No documents are produced to show that the applicant/accused has introduced or proposed the borrowers who have not repaid the loans.

5. Under such circumstances, considering the period for which the applicant/accused is in the prison, i.e., since 4.1.2017 and considering the evidence before me, I am inclined to grant bail on the following terms:

a) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/- (Rupees Forty thousand only) with one or two solvent sureties in the like amount.

b) The applicant/accused shall attend the concerned Police Station as and when called till filing of chargesheet and cooperate with the Investigating Officer;

c) The applicant-accused shall not tamper with the evidence or the documents or accounts and record of the credit society or pressurise the complainant or the witnesses;

d) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;

e) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.

e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)