IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1332 OF 2017

Vaishali Vishal Mudale }
Age 35 years, Occu;Service
R/o A-2, Nagnath Mistry Compound }
Kaju Pada, Ganesh Chowl, Borivali (East)
Mumbai-400 066 }
(at present lodged in Byculla Central Prison,
Mumbai) } .. Applicant
(Orig.Accd no.13)

vs

State of Maharashtra
vide its C.R.No.336 of 2015
registered at Dahisar Police Station
Mumbai investigated by police attached to
State CID,Konkan Bhavan, Navi Mumbai .. Respondent

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Ms.Shubhada Khot for Applicant
Mr.Praveen Chavan, Special Public Prosecutor
with Smt.Veera Shinde APP for State.

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CORAM: PRAKASH D.NAIK, J
DATE: 26 JULY 2017

P.C.

1. This is an application for bail in connection with C.R.No.336 of 2015 registered with Dahisar Police Station and investigated by State CID, Konkan Bhavan, Navi Mumbai. The

offences were registered under sections 406,408, 409,420,465,467,468,471,384,201,120(B),109 read with section 34 of Indian Penal Code and under sections 7,8,13 (1) (c) (d) of Prevention of Corruption Act, 1988.

2. The applicant surrendered before the investigating agency on 21.12.2016. The applicant has been impleaded as accused no.13 and shown to have been arrested in Special case No.104 of 2015 @ Special Case No.18 of 2017.

3. The case of the prosecution is as follows :

(a) It is alleged that the accused had acted in connivance with each other and committed misappropriation of the funds of Lok Shahir Annabhau Sathe Development Corporation.The accused conspired and diverted funds of the Corporation for their personal use and benefit.

(b) The applicant was appointed as a Clerk on daily wages since 12.7.2010. The applicant was promoted to the post of Assistant Deputy Manager (Administration) since

16.8.2012 by the main accused. The co-accused Ramesh Kadam, Shravan Bawane and Santosh Ingale promoted the applicant as a Law Officer from 11.8.2014. The appointment and promotion was not done in accordance with rules and regulations.

(c) During the period 13.8.2012 to 12.8.2014, the applicant-accused in the capacity as Assistant Deputy Manager conspired with the other accused and prepared forged Resolution nos.83/14/4 and 84/13. These Resolutions were not in the agenda. The Applicant had purchased a plot at Aurangabad under the guise of loan sanctioned by the Corporation to the tune of Rs.20 lakhs. The accused had obtained Rs.21 lakhs from co-accused Pawandeep Kohli and Rs.10 lakhs from one Yogesh Shinde. The applicant-accused was not entitled to obtain loan to the tune of Rs.20 lakhs from the Corporation considering her tenure as an employee of the Corporation. The plot was purchased for a consideration of Rs.51 lakhs.

(d) It is alleged that in the capacity as Deputy General Manager, the applicant had acted in connivance with other accused in implementing forged Resolutions to grant loan of Rs.30 crores to M/s Maitri Sugar and Trading Pvt.Ltd, Rs.5,33,90,000/- to Mahalaxmi Dugdha Utpadak Sahakari Sanstha, Solapur and Rs.1.3 crore to Prathamesh Magasvargiya Vahatuk Sanstha. It is also alleged that the amount of Rs.21 lakhs has been transferred to the account of the applicant from the account of Pawandeep Kohli through his company Mahindra Enterprises, who was involved in misappropriation of funds. It is alleged that amount was transferred from Corporation to company of Shri.Kohli.

4. The investigation is completed and charge sheet has been filed against the applicant on 17.3.2017.The First Information Report was registered on 18.7.2015. Apprehending arrest, the applicant preferred an application for anticipatory bail before the Special Judge, Mumbai.The said application was rejected by the Special Judge by an order dated 14.12.2015. The applicant thereafter preferred an application for Anticipatory bail before this Court.Interim protection was granted to the applicant. The said application was rejected on 23.11.2016.The applicant then approached the Hon'ble Supreme Court by way of Special Leave Appeal which was dismissed on 16.12.2016. On 21.12.2016 as stated

above, the applicant surrendered before the Investigating Officer.

5. The applicant thereafter preferred an application for bail before the Special Judge. The said application No.68 of 2016 was rejected by the Court on 7.1.2017.Thereafter the applicant preferred Bail Application No.131 of 2017 which was withdrawn as a statement was made by the Special Public Prosecutor that the charge sheet is ready for filing and the said application was allowed to be withdrawn by an order dated 7.3.2017 by keeping all contentions open. The charge sheet was filed on 17.3.2017 which was numbered as Special case No.18 of 2017.The applicant preferred an application for bail before the Special Court vide Exhibit 3. The said application was rejected on 8.5.2017. Thereafter, the present application for bail is preferred before this Court.

6. Learned counsel for the applicant submitted that there is no evidence against the applicant showing her involvement in the alleged crime. She is not concerned with misappropriation of funds.

There is no evidence of transfer of alleged misappropriated funds into the account of the applicant. It is submitted that there was no irregularity in the appointment of the applicant. She was appointed as a Clerk on daily wages basis being educated unemployed on 12.7.2010 which appointment was confirmed by 75th Board Meeting on 10.7.2012. On 16.8.2012 the applicant was appointed as Administrative Deputy Manager as per the Roaster system as a N.T category candidate. On 11.8.2014 the applicant was promoted to the post of Law Officer with effect from 1.8.2016 with Departmental Notification and on 1.9.2014 the applicant was given an additional charge to the post of Deputy General Manager (Administration). It is submitted that the applicant belongs to Hindu Dhangar community which is a scheduled Nomadic tribe and is entitled for State Reservation Policy. The applicant is a graduate in Arts. It is submitted that the applicant has also completed her post-graduate degree in Law from Mumbai University and passed her LL.M examination in the year 2014. It is further submitted that the applicant was required to handle salaries, leave attendance, transfers in the Corporation. She had no decision power or sanctioning authority in the Corporation and she was not attending meetings of Board of Directors. She was not responsible for the day-to-day administration, management and working of the Corporation.

7. Learned Advocate for the applicant further submitted that the allegations with respect to manipulation of the agenda and minutes of the Board meetings are devoid of any merits. There is no evidence that the applicant has destroyed the proceedings of meeting Nos.83 and 84 and that she had participated in implementing the forged Resolutions by which loan was granted to M/s Maitri Sugar and Trading Pvt.Ltd, Mahalaxmi Dugdha Utpadak Sahakari Sanstha and Prathamesh Magasvargiya Vahatuk Sanstha. It is sumitted that in relation to the transactions of M/s Maitri Sugar and Trading Pvt.Ltd and Komral Pvt.Ltd, accused-Vyomesh Shah (Accused No..7) Kiran Contractor (Accused no.8) and Suhas Dumbre (Accused no.9) came to be arrested. Accused-Vyomesh Shah is the Managing Director of Hubtown Ltd and he has filed an undertaking in the

Court of the learned Special Judge that Hubtown will deposit an amount of Rs.59 crores on behalf of three accused. Say was filed by the prosecution giving no objection to release the said accused on bail. Accordingly, the said accused were granted bail by the Special Court vide order dated 12.2.2016. It is further submitted that in respect to the allegations about payment made to Total Earth Movers and Sterling Motors for purchase of vehicles a resolution was passed to pay Rs.1.30 crores as a loan. Three vehicles were purchased by Prathamesh Magasvargiya Vahatuk Sahakari Sanstha. During the course of investigation, two vehicles have been seized. Concerned accused namely Umesh Kadam has been released on anticipatory bail by the Special Court vide order dated 21.12.2015. It is further submitted that as far as the allegation of transfer of amount of Rs.1.30 crores from the account of the Corporation to Mahalaxmi Dugdha Utpadak Sahakari Sanstha which was thereafter transferred to the account of Komral Realty Pvt. Ltd the accused-Smt Nakusa Kadam and Smt. Laxmi Lokhande who were Directors of Mahalaxmi Dugdha Utpadak Sahakari Sanstha were arrested and released on bail by the Special Judge vide an order dated 30.07.2015. It is further submitted that the prosecution is relying upon the statements of Vandana Rane, Additional Deputy General Manager (Project), Avinash Mandke Accountant (Recovery), and Dilip Khude Regional Manager. It is submitted that the above witnesses did not state anything incriminating against the applicant. Witness-Dilip Khude has stated that the agenda is prepared by high-ranking Officers of the Region on the basis of the in-puts given by them. The agenda is then given to the Managing Director for his approval. The duty of the applicant is to make a compilation of the subjects for the agenda suggested by high-ranking Officers. After approval of the Managing Director notices are sent to others. It is submitted that the applicant is not a influential person to decide and manipulate the agenda. It is submitted that final decision on the agenda is made by the Managing Director and in the event the decision is taken at the 11th hour by the Managing Director such an agenda can be incorporated with the permission of the Chairman. It is further submitted that the Board meetings were conducted in consonance with the Memorandum and

Articles of Association. The investigating authorities are attributing the role of destroying Resolution Nos.83 and 84 without any basis. It is submitted that on reading of the statement of the witnesses all minutes are recorded once the meeting of the Board is over and there is no chance of manipulation. The minutes are recorded after certification of the Managing Director. The agenda is discussed by all the administrative heads. The applicant was not the person attended during the meeting or concerned with it. The applicant was to prepare the agenda which would after scrutiny by the Managing Director was issued to the attendees on his directions. The meeting was attended by seven Directors including the Chairman who is impleaded as an accused. It is submitted that other persons who attended the meeting were not held liable. There is no material brought forth by the prosecution to substantiate its allegations with respect to misappropriation of money or destruction of the proceedings of books of meeting. The witnesses do not say that the applicant was responsible for preparing the Resolutions and its implementation or its destruction in any manner. She was not part of the Board meetings in which Resolutions were passed. The Resolutions are signed by Directors of the Corporation and two Government Officers.The learned Advocate further submitted that there is no allegation that the applicant had added the agenda to Resolution no.84 concerning Mahalaxmi Dugdha Utpadak Sahakari Sanstha.It is submitted that the applicant is the Administrative Officer having no authority or power with respect to decision-making and she cannot be held responsible for the contents of Resolutions passed and signed by the Board of Directors. Advocate for the applicant submitted that under the registered Sale Deed dated 25.7.2014 the applicant has purchased a plot of land admeasuring 4 acres at Aurangabad for a consideration of Rs.51 lacs. The applicant had secured a loan from the Corporation in the sum of Rs.20 lacs. Rs.10 lacs was secured as loan from Yogesh Shinde and Rs.21 lacs from Mahendra Enterprises owned by Pavandeep Kohli.The allegation that the said transaction is illegal is baseless. There is no illegality in the loan secured by the applicant. The amount of Rs.20 lacs was transferred by RTGS. There is valid Sale Deed between the applicant and the vendor namely Rajesh Bhattad. Statement of Rajesh Bhattad has been recorded by the Investigating Officer on 10.8.2016. Statement of Yogesh Shinde and Pawandeep Kohli were also recorded under sections 161 and 164 of the Code of Criminal Procedure. It is submitted that there is a reference of the bank account, statement of Pawandeep Kohli, Mahesh Enterprises and Tejinder Kaur Kohli, mother of Pawandeep Kohli. Statement of Ganesh Kuber who is a witness to the Sale Deed is also recorded. Statement of Jayesh Joshi was also recorded who is an accused in this case. It is submitted that statement of Jayesh Joshi-accused no.14 cannot be relied upon. The applicant had purchased property vide Sale deed dated 25.7.2014. She applied for loan under the Employees Welfare Scheme to the tune of Rs.20 lacs.The loan was sanctioned by the Board of Directors on 17.4.2015. The loan had to be re-paid in instalments.The applicant has re-paid about 13 instalments which were deducted from her salary.It is submitted that the prosecution is relying upon the statement of Dattatraya Zombde wherein he has alleged that applicant was not entitled for grant of loan. Learned counsel relied upon the contents of the statement of Dattatraya Zombde. Statement relating to the loan being advanced to Dattatray Zombde and various other persons was also brought to the notice of the Court. Loan was sanctioned to Dattatray Zombde from time to time. It is submitted that several employees were benefitted by the loan facility under the Employees Welfare Scheme. Dattatraya Zombde has availed loan of Rs.15,50,000/- duirng the period from 19.5.2014 to 19.9.2014. Loan was sanctioned even to the peon of the Office to the tune of Rs.10 lacs. The aforesaid facts are appearing in the documents annexed to the application. The learned counsel further submitted that it is alleged by the prosecution that in the transaction between the Corporation and Pawandeep Kohli Rs.4 crores were transferred from the account of the Corporation to Joshaba Madyavarthi Grahak Sahakari Sanstha and from said Sanstha to the account of Tejinder Kaur Kohli who is the mother of Pawandeep Kolhi and theafter to Mahendra Enterprises to that of the applicant. The counsel relied upon the copy of the bank account of Joshaba Madyavarthi Grahak Sahakari

Sanstha and submitted that a perusal of the same would reveal that an amount of Rs.4 crores has been transferred from the account of the Corporation on 15.7.2014 by RTGS to Joshaba Madyavarthi Grahak Sahakari Sanstha. It is submitted that a perusal of the bank statement of Tejinder Kohli which is also annexed to the application and which forms part of the supplementary charge sheet, it appears that on 15.7.2014 Rs.4 crores has been received by Tejinder Kaur Kohli in her account from Joshaba Madyavarthi Grahak Sahakari Sanstha by RTGS.The statement further reveals that during the period from 9.8.2014 to 15.9.2015 an amount of Rs.4 crores has been transferred to various accounts but, not to the account of the applicant. On 12.8.2015 Tejinder Kaur Kohli has transferred the amount to Pavandeep Kohli. It is submitted that the applicant has purchased the plot on 25.7.2014 and therefore it is clear that from the amount of Rs.4 crores transferred to the account of Tejinder Kaur Kohli the applicant has not been benefitted. It is further submitted that no amount was transferred from the bank account of Tejinder Kaur Kohli to Pawandeep Kohli before 25.7.2014 i.e. date of purchase of plot by the applicant. It is submitted that the applicant had raised a friendly loan of Rs.20 lacs from Pawandeep Kohli of Mahendra Enterprises which has its bank account with Axis Bank. Statement of the said bank account is part of the said supplementary charge sheet. The applicant has a bank account with Bank of Maharashtra. The applicant has received Rs.20 lacs loan from the Corporation on 21.7.2014 on the same day an amount of Rs.21 lacs has been received from Mahendra Enterprises and Rs. 10 lacs from Trimurthi Dhaba of Yogesh Shinde and on 22.7.2014 the applicant has transferred Rs.51 lacs to the vendor Rajesh Bhattad by RTGS which is evident from the statement of the bank account of the applicant which also forms part of the charge sheet.It is therefore, submitted that neither Tejinder Kaur Kohli had transferred Rs.21 lacs to the account of Mahendra Enterprises and to the applicant and the property was purchased much before Pawandeep Kohli received the amount from Tejinder Kaur Kohli. It is therefore, submitted that the applicant at no stage had received any amount allegedly transferred from the Corporation account to the account of Tejinder Kaur Kohli.

It is submitted that the applicant had obtained a friendly loan of Rs.10 lacs from Yogesh Shinde which is apparent from the bank account statement. On 21.7.2014 the said amount was deposited in cash. Rs.10 lacs were transferred to the applicant's account by RTGS. Statement of the said witness was recorded wherein he has not stated that the amount was secured from the main accused or from the Corporation or any society. The supplementary statement of Yogesh Shinde was recorded which gave details as to how he has collected the amount and given loan to the applicant. It is submitted that the said loan amount cannot be attributed to be tainted. The property was purchased from Rajesh Bhattad. It is submitted that he has stated in his statement that the property was sold to the applicant for Rs.51 lacs. Reference is also made to the bank statement of Rajesh Bhattad. It is therefore, submitted that on a perusal of the bank account statement of Joshaba Madyavarthi Grahak Sahakari Sanstha, Tejinder Kaur Kohli, Mahendra Enterprises, Rajesh Bhattad and bank statement of the applicant, it is clear that no amount of the Corporation has come to her bank account. Hence, there is no substance in the allegation that the applicant is the beneficiary of the amounts transferred from the Corporation.

8. Learned Advocate for the applicant further submitted that the Sale Deed mentioned the receipt of Rs.51 lacs by RTGS from the applicant towards consideration of the plot. The certificate and documents annexed to the Sale Deed are registered. The vendor had a absolute title. The stamp duty was paid by the applicant in accordance with provisions of law. No Objection Certificate was issued by CIDCO at the instance of Rajesh Bhattad and applicant as made by Rajesh Bhattad to CIDCO in that regard. The Sale Deed was executed between the parties and the transactions were carried out through the bank account of the applicant. At the time of registration of the property as per Ready Reckoner the payment with respect to purchase of the land was made. It is further submitted that the Legislature has enacted Criminal Law Ordinance, 1944. Section 3 deals with attachment of tainted properties of Public Servants. In

absence of application of provision of section 3 (3) of the Ordinance,1944 the exercise made by the prosecution making condition precedent for the deposit of the alleged amount in the Court in lieu of bail is also without jurisdiction. It is submitted that the applicant has not tempered with the Resolutions. She has made available xerox copies of the Resolutions which were available in the Department. It is further submitted that in respect of the amounts transferred to the other concerns on the basis of the Resolutions, Suhas Dumbre, Kiran Contractor and Vyomesh Shah were granted bail. Vyomesh Shah filed an undertaking that he will deposit Rs.59 crores in Court on behalf of accused nos.1 to 3. It is submitted that Vyomesh Shah and others had preferred a Writ Petition No.4197 of 2016 before the Division Bench of this Court in which an order was passed on 20.1.2017 wherein interim relief was granted and further deposits as per condition nos. 2 (i) 2 (ii) and 2 (iii) of the said order are stayed. It is further submitted that the applicant has been in custody since the date of her arrest. Prior to surrender of the applicant, she was granted interim protection during the pendency of her Anticipatory Bail Application. Interim protection was in force for a period of about one year. She has co-operated with the investigation. The matter relates to documents which are in possession of the investigating machinery. Statement of various witnesses were recorded and charge sheet is filed. The applicant is a woman and permanent resident of Mumbai. The trial may not commence immediately. It is therefore, submitted that the applicant may be granted bail.

9. Learned counsel for the applicant has relied upon the decision of the Supreme Court in Criminal Appeal No.509 of 2017 which relates to speedy trial and deals with the issue of prisoners continuing in custody without trial on account of delay in trial.

10. The learned Special Public Prosecutor appearing for the State vehemently opposed the application for bail.It is submitted that the applicant is involved in the crime. There is ample evidence against the applicant establishing her participation in the crime. It is

submitted that the applicant had acted in connivance with the co-accused. The applicant's complicity with other accused is also established from the fact that favours were shown to the applicant. The appointment of the applicant was irregular. Her promotion from time to time were also irrregular. Benefits were accrued to the applicant as she was a party to the conspiracy with other accused. It is submitted that the applicant has purchased a plot of land at Aurangabad and she was not entitled for loan. An amount of Rs.20 lacs was sanctioned to the applicant as a loan by the Corporation. The co-accused has advanced cash facility to the applicant for purchasing the said plot of land. The amount of Rs.21 lacs has been transferred from the account of Pawandeep Kohli and Tejinder Kaur Kohli to the applicant's account. It is submitted that the said amount was tained money. Funds of the Corporation was transferred to the account of the aforesaid persons which was then transferred to the applicant. There is no explanation as to why Yogesh Shinde has parted with the amount of Rs.10 lacs to the applicant. It is further submitted that vital Resolutions viz Nos.83 and 84 are missing from the Department. The said Resolutions were in possession of the applicant and deliberately the same were destroyed. It is submitted that the applicant is a party to the forgery of documents and has acted in connivance with other accused. The learned Special Public Prosecutor relied upon the statement of various persons viz Jayesh Joshi, Yogesh Shinde, Vandana Rane, Avinash Mandke,Dattatraya Zombade and various other witnesses which according to him shows the complicity of the applicant in the said crime. It is submitted that statement of the witnessses indicate that the applicant was supposed to hand over copies of the Resolutions although she had promised do so. She did not have any Resolutions which shows that the same were destroyed or that she is responsible for missing the said documents. It is submitted that the applicant is involved in the preparation of the agenda to facilitate the transactions. It is submitted that loans were transferred to M/s Maitri Sugar and Trading Pvt.Ltd and other concerns referred to herein above. Although the said accused are released on bail the orders were based on undertakings given by said accused upon deposit of the said amount. He relied upon statement of Shri Dhruv Kumar Mistry recorded on 17.12.2015.

11. The learned Special Public Prosecutor further submitted that the Santosh Ingale Managing Director of the Corporation on the recommendations of the accused-Ramesh Kadam appointed the applicant as a Law Officer by violating the rules and within a span of two years the applicant was promoted from the post of clerk to that of a Law Officer. The said appointment was made for seeking her assistance in the company. He relied upon the statement of Dattaraya Zombade in support of the said submissions. It is submitted that as submitted above, the applicant has tampered with the documents and has misplaced Resolution bearing nos.83 and 84. The original proceeding Book Nos.83 and 84 should have been made available and it was duty of the applicant to produce the same before the Investigating agency. It is further submitted that by inserting Resolution Nos.83/14/4,84/13 orders were passed in favour of M/s Maitri Trading Pvt.Ltd, Mahalaxmi Dughah Utpadak Sahakari

Sanstha and Prathamesh Vahatuk Sahakari Sanstha sanctioning funds worth Rs.36.63 lacs of the Corporation. It is submitted that the Resolutions were forged as there is no subject on the agenda or there is any circulation note in the Office of the Corporation or there is no proposal. There is no Office noting to recommend loan to the societies and there was no quorum of the meeting as proxy.Reliance placed on statement of Zombade recorded on 19.6.2016 wherein he has stated that applicant was not eligible to obtain loan and without considering seniority loan was sanctioned to her. He has also stated that it was responsibilityof applicant to handle office documents and inspite of that she has deliberately misplaced the vital documents of Corporation. He has also stated that the co-accused had appointed her on important post bypassing seniority. It is submitted that there is no explanation on the part of the applicant that Yogesh Shinde had given amount of Rs.10 lacs as well as Rs.2,75,000/- towards registration charges to the applicant. As per rules and bye laws, the applicant did not fulfil the criteria for the loan. The loan was to be sanctioned/disbursed only on completion of five years. Tejinder Kaur

Kohli had paid an amount of Rs.20 lacs by RTGS to the applicant and that an amount of Rs.4 crores was transferred from the account of Joshaba Madhyavarti Grahak Sahakari Sanstha to the account of Tejinder Kaur Kohli the mother of Pawandeep Kohli which was transferred to the account of the applicant. Learned Special Prosecutor also filed affidavit along with some documents to oppose the grant of bail.

12. The learned Special Public Prosecutor submitted that the applicant is involved in the offence of misappropriation of funds. This is a serious economic offence.The applicant is not entitled for bail. He has relied upon several decisions in support of his argument that bail should not be granted to the applicant.

13. Reliance is placed on the following decisions:

(i) Himanshu Chandravadan Desai & ors vs State of Gujrat **2005 (8) Supreme page 92**.

(ii) Suresh Kumar Bhikamchand Jain vs State of Maharashtra **(2013) O Cr.L.J.1625;**

(iii) Pradeep S/o Gyanchand Raisoni vs State of Maharashtra (**2012) ALLMR (Cri) 3075)**;

(iv) Gopiikishan S/o Madhukar Mujaria vs State of Maharashtra **2009 O All MR (Cri) 756**;

(v) The State vs Captain Jagjit Singh **AIR 1962 SC 253;**

(vi) Kalyan Chandra Sarkar vs Rajesh Ranjan alias Pappu Yadav & anr **AIR 2004 SC 1866;**

(vii) State of Madhya Pradesh & ors vs.Shri Ram Singh **AIR 2000 SC 870.**

14. It is submitted that in all these aforesaid decisions, Courts from time to time has observed that bail should not be granted in serious offences. It is also observed that longer term in custody and trial not likely to be concluded is no ground for grant of bail. The Court considered the issue of corruption in civilised society as a disease which factor has to be taken into consideration while considering grant of bail. In the circumstances, it is prayed that the application preferred by the applicant may be rejected.

15. I have gone through the entire charge sheet, the

documents on record and heard the submissions as aforesaid advanced by learned Advocate for the applicant and the learned Special Public Prosecutor.

16. The First Information Report was registered on 18.7.2015.The applicant had surrendered to custody on 21.12.2016. The charge sheet against the accused was filed on 7.3.2017.The applicant is an Arts graduate and has also completed her post-graduation in law. In the Resolution of 75th Board meeting dated 10.7.2012 it was resolved that the applicant and another be confirmed to the post of Clerk. The Chairman of the Corporation was Babasaheb Gokhale, the Managing Director was Santosh Ingale and the independent Goverment appointed Director was Smt.S.R.Chavan-an IAS Officer. The applicant was appointed as Assistant Deputy Manager-Administration from the N.T. category by the Departmental Notification dated 10.7.2014.The applicant's appointment was processed for being promoted to the post of Law Officer and she was promoted to the said post from 11.8.2014. She was given additional

charge to the post of Deputy General Manager (Administration) vide resuming letter dated 1.9.2014. According to the prosecution, the applicant had participated in implementing Resolution Nos.83/14/4 and 84/13 for granting loans to M/s Maitri Sugar and Trading Pvt.Ltd Mahalaxmi Dugdha Utpadak Sahakari Sanstha,Solapur and Prathamesh Magaswargiya Wahatuk Sahakari Sanstha. The amounts which has been referred to hereinabove were transferred to the said concerned firm from the Corporation. It is pertinent to note that the person to whom the said benefit was accrued were arrested viz accused nos.7,8,9 namely Vyomesh Shah, Kiran Contractor and Suhas Dumbre. Accused no.7 filed an undertaking in the Special Court that he will deposit the amount of Rs.59 crores on behalf of all three accused and on the basis of the said undertaking they were granted bail. The prosecution gave no objection for grant of bail. It is also noted that the amount transferred in favour of Total Earth Movers and Sterling Motors as well as Prathamesh Magasvargiya Vahatuk Sahakari Sanstha. Vehicles purchased were seized.The concerned accused-Umesh Kadam was released on anticipatory bail.

Similarly, accused concerning transfer of amount to Mahalaxmi Dugdha Utpadak Sahakari Sanstha, Smt Nakusa Kadam and Smt Laxmi Lokhande who were Directors of Mahalaxmi Dugdha Utpadak Sahakari Sanstha, Solapur were also released on bail. Statement of witnesses Vandana Rane, Avinash Mandke and Dilip Khude are relied upon by the prosecution which forms part of the charge sheet. The said witnesses do not refer to involvement of the applicant in connection with the crime. Dilip Khude has stated that the agenda is numbered by high-ranking Officers. The statement of Vandana Rane was recorded oni 21.7.2015 in great detail. She has not stated anything adverse against the applicant. Her statement was also recorded under section 164 of Code of Criminal Procedure on 14.10.2015. Statement of Avinash Mandke was recorded on 7.8.2014. He has furnished the details about working, decisions of Corporationi. Supplementary statement of said witness was recorded on 7.9.2015, which was followed by statement under section 164 Code of Criminal Procedure recorded on 23.09.2015. He does not refer to the alleged acts attributed to the applicant. Final decision on the agenda is taken by the Managing Director and any decision taken at the Board meeting can be incorporated with the permission of the Chairman. Xerox copies of the Resolutions were provided to the Investigating authorities. It appears that minutes are recorded after meetings of the Board are over and it is difficult to manipulate the same as the minutes are recorded after certification of the Managing Director and the agenda is discussed by the administrative heads. The applicant was the Administrative Officer. There is nothing to show that she had any authority or power with respect to the decision-making. It is pertinent to note that the plot of land was purchased by the applicant for a consideration of Rs.51 lacs. Out of that Rs.20 lacs was obtained as a loan and Rs.21 lacs was secured from Mahindra Enterprises of which Pawandeep Kohli was the Proprietor and Rs.10 lacs was secured from Yogesh Shinde and the applicant has been paying instalments in relation to the loans obtained from the Corporation. Statement of Yogesh Shinde is recorded but, he has not given explanation as to how he parted with the amount. The bank statement of the said persons were recorded during investigation. Statement of Jayesh Joshi has been referred to by the prosecution which has been referred to by the accused subsequently. The applicant had applied for a loan under the Employees Welfare Scheme and the same was sanctioned to her by the Board on 17.4.2017. The amount is to be repaid by way of instalments which is in process. From the statement of Suhas Dumbre it appears that the loan facility was also given to him on several occasions. The benefit of the loan was also advanced to various other persons and therefore it cannot be said only the applicant was given the loan facility. On perusal of the statement of Joshaba Madhyavarthi Grahak Sahakari Sanstha an amount of Rs.4 crores has been transferred from the account of the Corporation from 15.7.2014 by RTGS. Statement of Tejinder Kaur Kohli indicate that on 15.7.2014 Rs.4 crores has been received by her from Joshaba Madhyavarthi Grahak Sahakari Sanstha by RTGS. The statement also indicate that the amounts were transferred to various accounts. On 12.8.2014 Tejinder Kaur Kohli has transferred Rs.4.5 crores to Pawandeep Kohli. However, the applicant has purchased a plot of land on 25.7.2014. Thus, from the account of Rs.4 crores transferred to the account of Tejinder Kaur Kohli, no benefit was accrued to the applicant since no amount was transferred from the bank account of Tejinder Kaur Kohli to Pawandeep Kohli before 25.7.2014. The applicant received a loan of Rs.21 lacs by RTGS from Tejinder Kaur Kohli mother of Pawandeep Kolhi who is the Proprietor of Mahendra Enterprises. The applicant holds account with Bank of Maharashtra. It is recorded that on 21.10.2014 she has received Rs.20 lacs from the Corporation. On 21.6.2014 an amount of Rs.21 lacs was received from Mahendra Enterprises and Rs.10 lacs was received from Trimurty Dhaba of Yogesh Shinde. On 22.7.2014 an amount of Rs.51 lacs was transferred to the vendor Rajesh Bhattad. There is no substance in the submission that the applicant misappropriated the amount from the account of the Corporation and it has not been transferred to the account of the applicant. The statement of Dattatray Zombade was recorded on 5.11.2015. The said statement do not attribute any role to applicant in alleged crime. He has referred to resolution regarding grant of loan to Mahalaxmi Dugdha

Sahakari Sanstha and identified signatures of persons appearing therein. He also referred to Resolution to grant loan to Maitri Sugar and stated that it is signed by Officers and staff of Corporation.Reference is also made to Resolution granting amount to Mahindra Enterprises and Prathamesh Vahatuk Sahakari Sanstha and identified signatures. It is not stated that applicant is involved in preparing the said documents. The signatures appearing therein were apparently genuine. However, in his statement dated 19.6.2016 he has stated that loan was sanctioned to applicant without considering seniority. It is also stated that she was supposed to handle the documents of office but the same were deliberately misplaced. The statement is made belatedly. There is no evidence to show that applicant is supposed to handle documents except his bald statement.

17. In any case, the entire transactions are investigated and records are in the custody of the Investigating agency. The said Sale Deed is registered. The stamp duty was paid. Statement of

Pawandeep Kohli is recorded. Consideration was transferred by RTGS. The registration was done in accordance with Ready Reckoner. There is no room to doubt the genuineness of the said transaction. The Vendor-Rajesh Bhattad in his statement has stated that the property was sold by him for a consideration of Rs.51 lacs. Several other persons are granted bail. Apparently the transactions are explained by the applicant. She has been in custody from the date of her arrest i.e. 21.12.2016. The investigation is completed as against applicant and charge sheet has been filed.

18. It is apparent that so far as six supplementary charge sheets are filed. It is the prosecution case itself that investigation is still going on vide section 173 (8) of the Code of Criminal Procedure,1973. The prosecution has collected voluminous documents. As stated above, there are several charge sheets. It is not clear as to when entire investigation would be completed and the trial would commence.The applicant is a woman and there are no chances that she will abscond. She is having property in Mumbai and

permanent resident of Mumbai. She was on interim anticipatory bail for a period of one year and has co-operated with the investigation at that point of time. She is in custody from 21.12.2016. Further detention of the applicant is not neecssary as the charge sheet is already filed. The applicant has been paying instalments towards the loan obtained by her. The investigating agency can act in accordance with Criminal Law Amendment Ordinance 1944 in relation to the seizure of the property. The Hon'ble Supreme Court in the case of ***Sanjay Chandra vs Central Bureau of Investigation 2012 Cr.L.J.702*** has observed that it is not in interest of justice that accused should be in jail for indefinite period.

19. I have given anxious consideration to the decisions relied upon by the Special Public Prosecutor. However, taking into consideration the aforesaid circumstances, bail can be granted to the applicant. Hence, following order :

O R D E R

(i) The applicant is directed to be released on bail in connection with CR No.336 of 2015 registered at Dahisar

Police Station, Mumbai and presently subject matter of Special Case No.104 of 2015 @ Special Case No.18 of 2017 pending before the Special Court, Mumbai, on executing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(ii) The applicant shall attend the Investigating Officer of State CID, Konkan Bhavan, Navi Mumbai once a month on every first Saturday between 11.00 a.m. and 1.00 p.m.till further orders;

(iii) The applicant shall not tamper with the evidence or influence the witnesses in any manner whatsoever;

(iv) The applicant shall not create any third party interests in respect to the subject property purchased by the applicant which is situated at Aurangabad;

(v) The applicant shall submit her passport forthwith to the investigating Officer of State CID, Konkan Bhavan, Navi Mumbai;

(vi) The applicant is permitted to furnish cash surety in the sum of Rs.50,000/- for a period of four weeks in lieu of surety;

(vii) It is clarified that the observations made in this order are for considering the application for bail and the trial Court shall not be influenced by the same at the time of trial.

(viii) The bail application is disposed of.

{PRAKASH D. NAIK}