**IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT NAGPUR**

**CRIMINAL APPLICATION (APL) NO.488 OF 2016**

Shakir Habib Khan Pathan,
aged about 35 years, Occ: Contractor,
R/o. Kurkheda Near Pramod Petrol
Pump, Shri Ram Nagar, Kurkheda
Tahsil Kurkheda, Dist. Gadchiroli. ..APPLICANT

VERSUS

1. State of Maharashtra,
through P.S.O. Korchi Tahsil
Korchi, Dist. Gadchiroli,

2. Branch Manager, State Bank of
India, Branch Kurkheda,
Tahsil Kurkheda,
District Gadchiroli.

3. Branch Manager, Bank of India,
Branch Kurkheda, Tahsil
Kurkheda, Dist. Gadchiroli.

4. Branch Manager, District Central
Co-operative Bank, Branch
Kurkheda Tahsil Kurkheda,
District Gadchiroli.

5. Branch Manager, District Central
Co-operative Bank, Branch
Complex, Tahsil & District
Gadchiroli. ..RESPONDENTS

Mr K.B. Zinjarde, Advocate for the applicant;
Mr Vishal Gangane, Addl. Public Prosecutor for
respondent No.1

**CORAM : N.W. SAMBRE, J.**

**DATE : 23rd MARCH, 2017**

**ORAL ORDER :**

On 25th October, 2015 the Investigating Officer in Crime No. 32 of 2015, registered with Korchi Police Station, District Gadchiroli, for the offence punishable under Sections 409, 420, 477-A read with Section 34 of the Indian Penal Code, directed the seizure of account of the present applicant, which is operated with the banks i.e. respondent Nos. 2 to 5.

2. From the inquiry report as is placed on record, particularly at annexure-13, it is noted that of the amount, Rs.17,10,899/- was deposited in the account of present applicant, work for Rs. 7,96,002/- was executed and work for balance amount to the extent of Rs.9,14,897/- was not executed, still the amount was withdrawn. The said work is in relation to providing water supply to Ashram School at Gyarapatti, Taluka Korchi, District Gadchiroli.

3. In paragraph-14 of the application, the applicant has made following categorical averments.

“14. It is submitted that the applicant is ready and willing to give full co-operation to police and for the same he is ready and willing to hand over the amount which investigating agency is claiming as amount of misappropriation and lying in the bank account of applicant, by withdrawing the same from his accounts but for a meager amount keeping the while business of applicant at naught is not coming within the ambit of principles of natural justice. In this connection it is submitted that when the application of the applicant for anticipatory bail was pending in this Hon’ble High Court the then Hon’ble Judge had directed the Superintending Engineer to make fresh investigation in order to submit the real figure of amount of misappropriation in each work and a report was submitted by Superintending Engineer and as per that report the cost of the work remain to be done was Rs. 9,14,897/- and applicant is always ready to deposit this amount by withdrawing the same from the above accounts. It is submitted that much more than the above amount is lying in the above said frozen accounts of applicant. A copy of report is submitted as **ANNEXURE-13.**"

4. Mr. Zinjarde, learned Counsel for the applicant would submit that in the accounts of the applicant, which are operated with respondent Nos.2 to 5, there is much more amount lying and he is ready and willing to deposit the amount/diversion of amount of which defalcation is alleged as against him by the concerned Investigating Officer.

5. The above referred proposition is not objected by learned Additional Public Prosecutor, as the learned Additional Public Prosecutor submits that intention of investigating agency to secure the amount, which is involved in the crime in question.

6. In view of above, this Court propose to pass following order.

(i) In view of above, a specific statement is made, upon instructions by learned Counsel for the applicant that the applicant shall issue one cheque to each respective bank thereby divesting amount of Rs.11,00,000/- (Rs. Eleven lacs only) in the name of Investigating Officer in the aforesaid crime. If such cheques are presented by the applicant to the banks, banks shall draw demand drafts in the name of Investigating Officer for respective amounts mentioned in cheque totalling to Rs.11,00,000/- in proportion to the balance amount in respective bank accounts of the present applicant. It will be responsibility of the respondent-bank to hand over said demand drafts to the Investigating Officer in the crime in question.

(ii) If demand drafts as ordered herein above are handed over, it is ordered that the accounts of the applicant with respondents-bank, which are sealed pursuant to the order of Investigating Officer, be de-sealed and regular operation of the said accounts be carried out. In case, if it is noticed that the amount of Rs.11,00,000/- as is ordered herein above deposited with the Investigating Officer, fell short, order of sealing of account shall continue to operate.

7. With above observations, present application stands disposed of.

**(N.W. SAMBRE, J.)**

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