

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

BAIL APPLICATION NO.370 OF 2018

Shri. Atul Anil Koshti Applicant

Vs.

The State of Maharashtra Respondent

Mr. Tushar Limbajirao Pimple for the Applicant.

Mr. S.H. Yadav, APP for the State.

Mr. H.S. Naik, ASI, Gandhingalaj police station, District Kolhapur.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 28th June, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 3rd September 2017 in Crime No.190 of 2017, registered at Gadhingalaj Police Station, District Kolhapur, for the offences punishable under Sections 420 and 409 of Indian Penal Code.

3 It is the case of the prosecution that on 2nd September 2017, Sanjay Vasantao Shinde lodged a report at the police station alleging therein that he is serving in H.D.F.C. Bank, Gadhingalaj Branch. The applicant is also working with H.D.F.C. Bank in the Retail Banking Branch during the period 22nd December 2015 to 30th May 2017. The applicant was working in Welcome Decks Personal Banker Section. On 20th May 2017, one of the customer of the bank namely Dastagir Kamruddin Makandar had noticed that he has no balance in his account although he had not withdrawn the same. Similarly, there were other customers, who had complained that the monies had been withdrawn from their accounts without their authority. On secret enquiry, it was revealed that the present applicant had withdrawn and mis-appropriated the amounts from several accounts. The total amount mis-appropriated by the present applicant was Rs.12,35,739/-. The applicant has been arrested and is in custody.

4 This Court, vide order dated 28th February 2018 had observed that the amount of Rs.8,06,687/- has been recovered from

the applicant and that the applicant had shown his willingness to deposit an amount of Rs.4,46,532/-. The applicant was therefore directed to deposit an amount of Rs.4,47,000/- in this Court. The applicant has complied with the said order. Learned counsel for the applicant submits that in view of this, the applicant deserves to be enlarged on bail. It is true that the applicant will not be exonerated of the offence only because he has deposited the mis-appropriated amount. The applicant will have to stand the trial for the offences punishable under Sections 420 and 409 of Indian Penal Code. However, since both the offences are triable by the Magistrate and that the Magistrate would not be able to conclude the trial in close proximity. The applicant deserve to be enlarged on bail.

5 The observations are restricted to the application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of discharge application or at the time of trial. Hence, the order :

ORDER

- i) The application is allowed.
- ii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- iii) The applicant, within four weeks from the date of release shall furnish his residential address, cell-phone and other details to the investigating officer.
- iv) The applicant shall also give an undertaking to the Magistrate contending therein that he would attend each and every dates at the time of trial.
- v) Upon failure to attend any two consecutive dates, the prosecution would be at liberty to file an application under Section 439(2) of Cr.P.C.

(Smt. Sadhana S. Jadhav, J)