IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2528 OF 2017

Sachin Sambhaji Ghorpade   Applicant
Versus
The State of Maharashtra   Respondent

Mr.Prashant Mohan Patil, for the applicant.
Ms.Veera Shinde, APP, for the State.

CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 2nd February, 2018.

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 10.7.2017 in Crime No.294 of 2016 registered at Vaduj City Police Station, Satara for the offences punishable under Sections 408, 420, 468 and 477A of the Indian Penal Code. The investigation is completed and charge-sheet is filed against the accused.

2. It is the case of the prosecution that the applicant herein was appointed as a sales person in Hindustan Feeds Manufacturing Co. situated at New MIDC, Satara, on 15.7.2010. By virtue of his promotion he was officiating as the Assistant Sales Manager. The company was engaged in

distribution of cattle-feeds and other pet-feeds.

3. On 5.11.2016, a report was lodged by Anant Kulkarni at Satara City Police Station against the applicant. That they were conducting the audit for the period 26.9.2016 to 17.10.2016. It was revealed that there are same discrepancies in the accounts. That the applicant who was working as an Assistant Manager had misappropriated certain amounts for his own benefit. Moreover, there was also falsification of accounts and hence the report was lodged alleging therein that there is misappropriation of funds and falsification of accounts during the period 31.5.2016 to 22.9.2016. Initially, on the basis of the said report, Crime No.728 of 2016 was registered at Satara Police Station. However, for want of jurisdiction, the investigation was transferred to Vaduj Police Station and re-numbered as Crime No.294 of 2016.

4. It is pertinent to note that at the time of appointment, the company had obtained a letter of assurance from the newly appointed employees affirming therein that in the eventuality the employees indulge into any misappropriation, falsification of accounts or cause any loss to the company in any manner, the same will be compensated or deducted from their employees fund, gratuity fund, bonus, earned leave, etc. If the

recovery does not fulfill the amount which is misappropriated, their personal properties would be seized by the company and the same will be binding upon all the family members of the said employee. It is pertinent to note that the said affidavit is further affirmed by the mother of the applicant namely Kamal Ghorpade. This is a strange practice followed by the company. At the time of appointment, it is presumed that the employee, in all probabilities, may indulge into such malpractices and hence a deed of assurance is executed from the company. There is no reference to criminal prosecution.

5. Be that as it may, upon perusal of papers of investigation, this Court is of the opinion that prima facie, the offence appears to be that of falsification of accounts under Section 477A of the Indian Penal Code which is punishable upto **seven years or fine or both.** In view of this, the applicant who is in custody since 10.7.2017 deserves to be enlarged on bail.

6. However, The above observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

<u>O R D E R</u>

(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 shall co-operate with the investigating agency to the best of his capacity, if required.

The Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)