IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.320/2018

((Amol Pandurang Girhale Vs. State of Maharashtra, through P.S.O.Karanja (Ghadge, District Wardha,)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Shri A.J.Thakkar, Advocate for applicant.
Shri A.V.Palshikar, APP for non-applicant/State.

CORAM : S. B. SHUKRE, J.
DATE : APRIL 27, 2018

Heard Shri Thakkar, learned Counsel for the applicant and Shri Palshikar, learned APP for the State. Perused the reply of the prosecution and the charge-sheet.

I have gone through the terms of the contract entered into between the informant which is Drishti Company and this applicant. With the assistance of the learned APP for the State, I have also gone through the policy document of the State Bank of India. This document shows that the authority to collect money on behalf of the State Bank of India from various depositors was specifically given to Drishti Company by the State Bank of India. Material available on record also shows that this work was sub-contracted by Drishti Company by executing an agreement with the applicant. However, the agreement of sub-contract executed by Drishti Company with this applicant does not show that corresponding authority was delegated by Drishti Company to this applicant to collect deposits on behalf of the State Bank of India. The agreement entered into between Drishti

Company and this applicant does not show expressly that this applicant had any authority to collect deposits for Drishti Company or State Bank of India. The authority is for only running a financial kiosk. It is not clarified as to in what manner financial kiosk was to be operated on behalf of Drishti Company by this applicant.

So far as the work of collection of deposits on behalf of the State Bank of India is concerned, this applicant could not be considered as an agent of the State Bank of India or even for that matter of the Drishti Company. However, at the same time, it is also seen that it is not the allegation of Drishti Company that this applicant exceeded the authority given to him and collected deposits. The contention of Drishti Company is that this applicant collected deposits as per the authority given to him. But, no such authority is to be seen in the document executed between Drishti Company and this applicant. The applicant's stand is that he never collected any deposits. So the question of any misappropriation by him would not arise, unless any details are placed on record, which is not the case for the present.

Presently, the State Bank of India has not registered any complaint of misappropriation against the officials of Drishti Company. In fact, material on record shows that some deposits were collected by Drishti Company on behalf of the State Bank of India in terms of express authority given to Drishti Company to collect deposits for State Bank of India. But, Drishti Company did not deposit the same with State Bank of India. It is obvious that if any prima facie offence has been committed, in a case like this, the needle of suspicion would first point towards the agent of the State Bank of India, that is, Drishti Company, and then, it would, if at all it would, towards the sub-agent like the present applicant. But, presently, this does not seem to be the case of the prosecution.

In the result, I am inclined to allow this application and it is allowed accordingly. It is directed that the applicant be released on bail on his furnishing PR Bond of Rs.30,000/- together with one solvent surety in the like sum on the following conditions :

(i) The applicant shall co-operate with the trial Court in expeditious disposal of the case.

(ii) The applicant shall not tamper with the prosecution witnesses.

The application stands disposed of.

JUDGE

Andurkar.