

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 60 OF 2019****IN****ANTICIPATORY BAIL APPLICATION NO. 1964 OF 2016**

THE NEEDS OF LIFE CO-
OPERATIVE BANK LIMITED

.....APPLICANT

IN THE MATTER BETWEEN

LAL GHANSHANI

.....RESPONDENT NO.1.

THE STATE OF MAHARASHTRA

.....RESPONDENT NO.2.

Mr. Kirit Hakani a/w Niyati Hakani for the Applicant.

Mr. Sanjay Shinde for the Applicant in ABA No. 1964 of 2016.

Mr. Ajay Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 12th APRIL, 2019.

P.C.:-

This is an Application for withdrawal of amount deposited by the Respondent No.1/ the Original Accused in ABA Nos. 1964 of 2016.

2 Heard the learned counsel for the Applicant-Bank, the learned counsel for the Respondent No.1 and the learned APP. Perused the affidavit-in-reply filed by the Respondent No.1 Applicant

in ABA No. 1964 of 2016.

3 By an Order dated 29th June, 2018, the pre-arrest bail Applications preferred by the accused Smt. Manisha Jadhav (ABA No. 1962 of 2016) and Lal Ghanshani (ABA No. 1964 of 2016) were allowed on their furnishing undertakings and giving scheduled of deposit of the alleged defalcated amount involved in the present crime.

4 The prosecution case in brief is that, the above said Applicants were in authority of the bank namely the Needs of Life Co-operative Bank Limited and committed defalcation of approximately an amount of Rs.1crore, 85 lakhs.

During the course of arguments, in the said Anticipatory Bail Applications, the learned counsel for the said Applicants, on instructions, had made a statement that, with a view to prove their bonafide and without prejudice to their rights and contentions so also with a view to avoid custodial interrogation, the Applicants therein were intending to deposit a sum of Rs.2 crores in the Registry of this Court. In pursuance thereof, an affidavit cum undertaking was filed in this Court.

The record indicates that, in pursuance of the Order dated 29th June, 2018, the said Applicant Mr. Lal Ghanshani (ABA No. 1964 of 2016) has deposited a sum of Rs.2 crores in the Registry of this Court.

5 The Applicant herein is the said Bank i.e. the Needs of Life Co-operative Bank Limited and this is an Application of the said Bank for withdrawal of the said amount.

Prima facie, it appears that, the said amount belongs to the said bank. However, as the Applicant in ABA No. 1964 of 2016 has deposited the said amount without prejudice to his rights and contentions which *inter-alia* means that, the said deposit would be subject to the final outcome of the trial in C.R. No. 239 of 2016, registered with M.R.A. Marg police station, the Applicant herein will have to give adequate security for the said amount while withdrawing it.

6 Mr. Hakani, the learned counsel for the Applicant-Bank, on instructions, submitted that, the Applicant will give continuous bank guarantee drawn in favour of the Maharashtra State Co-operative Bank Limited, the Apex Co-operative Bank in the State of Maharashtra and the said bank guarantee shall remain in force till

conclusion of the Trial.

The said statement is accepted.

7 In view of the statement made by Mr. Hakani, the learned counsel for the Applicant-Bank, the Applicant-Bank is permitted to withdraw the said amount of Rs.2 crores from the Registry of this Court, subject to condition that the Applicant-Bank before accepting the said sum, shall execute a continuous bank guarantee of Rs.2 crores drawn in the name of the Maharashtra State Co-operative Bank Limited, Mumbai.

8 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)