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

## CRIMINAL APPLICATION NO. 126 OF 2019
## (FOR CANCELLATION OF ANTICIPATORY BAIL)

The State of Maharashtra .Applicant

Vs.

Manoj Anil Pradhan .Respondent

Mrs. P.P. Shinde, APP, for the Applicant – State.

Mr. R. Mahadevan a/w Ms. Deepika Prabhala i/b. Res Juris, for the Respondent No.1.

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 23.09.2019**

**P.C.**

. Heard learned counsel for the parties.

2. By this Application, the Applicant – State of Maharashtra has impugned the order dated 07.01.2019 passed by the learned Additional Sessions Judge, Thane, below Exh.1 in Anticipatory Bail Application No.3547 of 2018, by which the learned Sessions Judge, Thane was pleased to grant pre-arrest bail to the Respondent herein.

3. Learned APP for the Applicant – State has assailed the impugned order dated 07.01.2019 on several counts. She submits that the learned Judge has not considered the documents, which clearly point to the complicity and the role played by the Respondent in the crime. She further submits that the learned Judge has failed to consider the parameters for grant of pre-arrest bail in cases of Economic Offences. She further submits that the documents on record i. e. the Bank statements clearly show that Rs.3 crores 21 lakhs odd of 'Shree Vajreshwari Yogini Devi Sansthan', (Temple Trust), were diverted by the Respondent into his own account. Learned APP has tendered a compilation of documents which is taken on record to show the manner in which the Respondent has misappropriated the Temple Trust money. According to the learned APP, the Respondent had also accepted his guilt / liability and had agreed to deposit the said amount (with interest) with the Trust not on one occasion but on two occasions, pursuant to the show cause notice issued to the Respondent by the Trust. She relied on Exhibits 'J' and 'K' in the said compilation tendered today. She submits that the Respondent has similar antecedents i. e. cases of cheating registered as against him. She submits that the Respondent transferred/ diverted the funds of the Trust in his own account and thereafter, withdrew the said amount partly in cash and transferred part of the amount by RTGS to different entities and as such his custody is necessary to unearth the fraud. She submits that custody of the

Respondent is warranted to unearth where the said amount has gone and the person/persons involved in the said offence.

4. Learned counsel for the Respondent opposed the Application. He submits that no interference was warranted in the impugned order, inasmuch, as the learned Judge has in detail considered the material on record and after taking into consideration the material, granted pre-arrest bail to the Respondent. He further submits that the custody of the Respondent is not warranted, since all the documents are in the custody of the police. He further submitted that the Respondent denies giving any letters as alleged by the learned APP, admitting his liability. He submits that the Respondent's signatures were taken on blank papers and as such, the Respondent was not aware of the contents filled therein. He further submits that as per the bye laws, any financial transaction is to be signed by the Chairman of the trust alongwith one or more trustees, which has been done and the same has also been observed by the learned Judge, Thane, whilst granting pre-arrest bail to the respondent. Learned counsel for the Respondent No. 2 states that the money was transferred from the account of Shree Vajreshwari Yogini Devi Sansthan, held in Corporation Bank to the Respondent's account, at the behest of the Complainant and other trustees. He submits that the Respondent has withdrawn the amounts received by him in his account and given part of the money to the

Complainant, for giving it to the Complainant's uncle – Bhoir, for removing encroachment on the Trust property. He submits that therefore, the entire money received in the Respondent's account has not been used by him alone but a substantial amount has been given to the Complainant. He further submits that there are discrepancies in the first complaint lodged by the Complainant on 16.11.2018 and the FIR lodged on 22.11.2018 with the Ganeshpuri Police Station. He further submits that the Respondent was the Chairman only from February, 2014 to March, 2017 and as such, some of the transactions have taken place post March 2017, when he was not the Chairman.

5. Perused the papers. A few undisputed facts are;

Shree Vajreshwari Yogini Devi Sansthan, a public trust was registered on 27.05.1952. It is not in dispute, vide Judgment and Order dated 09.12.2013 passed in Civil Misc. Application No. 202 of 2009, the learned Principal Judge, Thane, directed the Board of trustees to handover the charge to the initially appointed members of the trust on or before 22.12.2013. Pursuant to the said Judgment and Order dated 09.12.2013 passed by the learned Principal District Judge, Thane, the concerned Board of trustees handed over the charge to the initially appointed trustees – K. A. Patil, A. M. Raut and M. A. Pradhan ( Applicant ) and J. Padgaonkar for a period of five years to act as trustees. It is also not in dispute that on 16.02.2014, the trustees held a meeting and took charge of Shree Vajreshwari Yogini Devi Sansthan, and the Respondent was appointed as a President of the said trust for the period 16.02.2014 to 09.03.2017. It is also not in dispute that on 09.03.2017, A. M. Raut took charge of the said trust as a President of the trust till 18.07.2018 and on 18.07.2018, K. A. Patil (Complainant herein) took charge as the Chairman of the said trust. It is not in dispute that on 13.12.2016, a Resolution was passed by the trustees for opening a Bank account in the name of the Trust in the Corporation Bank. The object was to invest money in the Corporation Bank, as the Corporation Bank was giving a higher rate of interest on Fixed Deposits compared to other banks. On 07.01.2017, an account was opened in the name of Shree Vajreshwari Yogini Devi Sansthan, in the Corporation Bank. The said account opening form was signed by the Respondent as the Chairman and the Complainant as the trustee. It appears that during the period 07.01.2017 to 17.02.2018, a total amount of Rs. 3,22,00,000/- was transferred from the said trust i. e. Shree Vajreshwari Yogini Devi Sansthan, to the Corporation Bank, for making Fixed Deposits of the said amounts.

It appears that no Fixed Deposits were made, for which the money was transferred from the said trust to the Corporation Bank and instead fake and forged documents were prepared by the Respondent to show that Fixed Deposits were made. It is further appears that huge amounts were transferred/diverted by the

Respondent in his own account standing in the Corporation Bank. The statement of account of the Corporation Bank shows that huge amounts were transferred i.e. Rs. 40,50,000/-, Rs. 26,50,000/-, Rs. 8,40,000/-, Rs. 15,00,000/- etc., on different dates from the Shree Vajreshwari Yogini Devi Sansthan's account with the Corporation Bank, into the Respondent's account, also with the Corporation Bank.

6. Learned counsel for the Respondent does not dispute the fact, that the said amounts were transferred from the Trust's account to the Respondent's account, however, he submits that the monies were transferred/diverted at the behest of the complainant. According to the learned counsel, after transfer, the Respondent withdrew cash and gave a substantial amount to the Complainant. It appears from the statement of accounts handed over by the learned APP that the said amounts were transferred from the Trust's account into the respondent's account from the period 12th January, 2017 to 17th February, 2018. It appears that about 40,50,000/- was also transferred from the said Trust's account to one 'Mahadev Enterprises'. Thus, the entire Trust funds were diverted to the Respondent's account and to one 'Mahadev Enterprises'. It appears from the statement of accounts that the amount transferred/diverted in the Respondent's account was partly withdrawn by the Respondent in cash and part of the amounts were transferred by the Respondent by R.T.G.S. to Apurva Enterprises,

Bhartiya Vidya, Atul Karnik, Shree Sai Prasad and Hotel Vrindavan. The police are yet to unearth to whom these transfers have been made by the Respondent. The police are also to investigate who are the ultimate beneficiaries of 'Mahadev Enterprises'. When interim protection was granted by the Sessions Court to the Respondent, he was directed to attend the concerned police station, however, the respondent has not co-operated with the investigation and has not disclosed who these entities were.

It also appears from the letter dated 28th November, 2018, sent by the Corporation Bank, that all the Fixed Deposits allegedly made were fake and colour photo-copies. It is not in dispute that the purpose for which the amounts were transferred to the Corporation Bank, was for making Fixed Deposits, which was not done. The statements of the officers of the Bank have also been recorded which clearly show that the said Fixed Deposits were forged and fabricated. *Prima facie*, the Respondent appears to be the beneficiary and the material on record clearly shows his complicity in the offence. A perusal of the documents which are at Exhibits 'J' (handwritten letter allegedly written by the Respondent) and 'K' of the compilation handed over by the learned APP, shows that the same have been signed by the Respondent. The signature on the said documents is also not disputed by the Respondent. Learned counsel for the Respondent states that the document at Exhibit 'J' has not been written, by the Respondent, and that the Respondent's signature was taken on a blank paper. In the said letter at Exhibit 'J' allegedly written by the Respondent, the Respondent has admitted his liability and agreed to pay the amounts within one month. The said letter *prima facie,* appears to have been written by the Respondent. There is another letter at Exhibit - 'K' which is typewritten. In the said letter allegedly given by the Respondent, the Respondent has admitted misappropriation of the funds of the Trust and had agreed to deposit the same. Both the said letters were allegedly handed over by the Respondent, pursuant to the show-cause-notice issued to him by the Trust. In the separate compilation tendered by the learned APP, the forged and fabricated Fixed Deposits are on page nos.43 to 50 of the compilation i.e. Exhibit - 'F'. The eight Fixed Deposits allegedly issued by the Corporation Bank have fake stamps on the certificate and the signatures affixed thereon are not of the Bank officials. The letter issued by the Corporation Bank fortifies the same.

7. The Learned Judge while allowing pre-arrest bail to the Respondent has clearly ignored the vital and relevant material *qua* the Respondent and without considering the same, has proceeded to grant pre-arrest bail to the Respondent. Shree Vajreshwari Yogini Devi Sansthan is a temple trust where devotees come and make their offerings. The temple trust receives huge amounts by way of such offerings by its devotees. It is this public money which has been

misappropriated by the Respondent. The custody of the Respondent is necessary to find out who are the entities to whom the money has been transferred to, and what has been done by the Respondent with the cash withdrawals. The amount misappropriated by the Respondent is stated to be about 3 crores 22 lakhs. The offence is a serious economic offence. Needless to state that if, during the course of investigation, it is found that other trustees/entities are also involved, it is always open for the police to take appropriate action/steps, *qua* them.

8. Learned Counsel for the Respondent states that the Respondent will surrender before the investigating officer on 30th September, 2019. Statement accepted.

9. Accordingly, the Application is allowed on the following terms and conditions :

**<u>ORDER</u>**

(i) The impugned order dated 07.01.2019 passed by learned Additional Sessions Judge, Thane, below Exh.1 in Anticipatory Bail Application No.3547 of 2018, is quashed and set aside.

(ii) The respondent to surrender before the concerned Investigating Officer on or before 30.09.2019.

10. The Application is accordingly disposed of.

11. It is made clear that if an application for regular bail is filed, the learned Judge shall consider the same on its own merits, uninfluenced by the observations made in this order.

12. All concerned to act on the authenticated copy of this order.

**(REVATI MOHITE DERE, J.)**