

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2739 OF 2019

Nidhi Vishal Shetty

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. A.H. Panda a/w Subhash Jadhav a/w Chandansingh Shekhawat a/w
Amit Patil i/b Parinam Law Associates for Applicant.

Mr. S. R. Aagarkar, A.P.P. for the Respondent-State.

P.S.I. Mr. Amol Ambavane, Tilak Nagar Police Station, Mumbai present.

CORAM : SANDEEP K. SHINDE, J.
DATE : 21th NOVEMBER 2019.

P.C.

1 Heard learned counsel for the appellant and A.P.P. for the respondent - State. The Investigating Officer is present.

2 Applicant-woman is seeking her enlargement of bail in crime No. 86 of 2019 (Criminal Case No. PW/932/2019) registered with the Tilak Nagar Police Station, Mumbai for the offences punishable under Sections 406, 408 and 420 of the Indian Penal Code (for short '**IPC**').

3 Applicant was apprehended on 07th May 2019. First informant is proprietress of M/s. "The Photo Diary" (herein after referred to as 'the said company'). It's business is of photography and videography. The

Complainant was delegated the work in relation to financial dealings of the said company, and was made in-charge for all expenditures in relation to the assignments.

4 It is alleged, in all 19 clients (debtors') of the said company, paid cash Rs. 26,90,000/- to the applicant on the different dates, from April 2017 to December 2018. Particulars of which are reproduced in the charge-sheet. It is alleged the applicant did not render the account of the amount. The next allegation is, the said company, from July 2017 till December 2018 transferred Rs.13,75,640/- in the account of the applicant by RTGS. It is alleged, the applicant was expected to expend it, as business expenditure. It is alleged that, she did not rendered the account of it. Therefore, it is alleged, applicant misappropriated the companys' property worth of Rs.46,99,240/-.

5 Mr. Ponda learned counsel for the applicant has produced on record, chart giving particulars of amount allegedly paid by companys' clients to the present applicant. The chart is disputed by the learned A.P.P.

6 Be that as it may, it appears out of 19 clients, the statement of six client's are recorded by the Investigating Officer, to verify the allegation made by the complainant.

7 However, the Investigating Officer has neither collected/verified primary evidence i.e. entries in books of accounts of those nineteen clients nor verified books of the company, to ascertain correctness of dues. Therefore, except allegations and the statement of witnesses (six clients) it appears there is no other material on record.

8 It may be stated the amount of Rs.13,75,640/- has been transferred in the bank account of the applicant by the company by RTGS. If the amount has not been expended as business expenditure, company may recover it by a mode permissible in-law.

9 The applicant is in the custody since 07th May 2019. Investigation is over. The trial in the case has been stayed by this Court in one of the proceedings filed by the present applicant. The applicant is the resident of Mumbai and her presence for the trial can be secured by imposing conditions.

10 In view of the facts of the case, and for the reasons stated application is allowed.

11 Applicant is directed to be released on bail on the following terms and conditions :

ORDER

- (i) The applicant is directed to be enlarged on bail in C.R. No. 86/2019 registered with Tilak Nagar Police Station, on applicant executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (ii) The applicant shall furnish particulars of his residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station within a week from date on which order is uploaded;
- (iii) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The applicant shall not leave the country without permission of the learned Trial Court.

12 The application is allowed in the aforesaid terms and is

accordingly disposed of.

13 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

(SANDEEP K. SHINDE, J.)