IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2738 OF 2018

Jayesh Kashinath Mahajan ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

Mr.R.D. Suryawanshi for Applicant.
Mr.Amit Palkar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 26th March 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. 179 of 2018 dated 28/03/2018 registered with Powai Police Station, Mumbai, for the offence punishable under Section 420, 408, 406 read with 34 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the chargesheet.

3] The first information report is lodged by Mr.Kshitij Shantaram Thavre, Associate Director of Asan Jobs Private Limited, Andheri (East), Mumbai.

It is the case of the prosecution that the applicant was appointed as Finance and Account Manager in the said company in June 2015. Thereafter, he was working as Head (Legal and Compliance) of the said company. The applicant was entrusted with the work of staffing finance, pay role, staffing compliances and staffing attendance sheet. The applicant was also entrusted with the work of making payment of the staff of the said company. That in the month of August 2017, the finance controller of the said company conducted audit and it was revealed that from June 2016 to February 2017, funds totaling to Rs.58,33,942/- have been diverted in three accounts of (i) Sandip Sodye, (ii) Shoab Khan and (iii) Chandan Chaudhary. The two accused persons, namely, Sandip Sodye and Shoab Khan were earning about Rs.10,000/- per month as salary from the said company.

During the course of inquiry by the company, it was revealed that it is the applicant who diverted the funds of the company in the accounts of the said two accused persons, namely, Sandip Sodye and Shoab Khan and has subsequently, siphoned it out. During the course of investigation, the applicant came to be arrested on 22/04/2018 and after completion of investigation, the police have submitted chargesheet.

4] The afore-stated facts are derived from the prosecution case and the chargesheet submitted by the Investigating Officer after completion of investigation. The material available on record indicates that, after the amounts were diverted in the account of the co-accused Sandip Sodye and Shoab Khan. It is the applicant who directed them to withdraw the said amounts and after its withdrawal, has collected it from the said two persons. The evidence further indicates that, the applicant in a well planned manner has committed the present crime.

5] The Hon'ble Supreme Court in the case of *Nimmagadda Prasad Vs. Central Bureau of Investigation, reported in (2013) 7 SCC 466*, has held that, economic offences constitute a class apart and need to be visited with a different approach in the matter of bail.

Undoubtedly, the present crime lodged against the applicant is an economic offence and requires to be dealt with it accordingly. There is sufficient material available on record to show the clear complicity of the applicant in the present crime.

6] In view of the above, I find that the applicant does not deserve to be released on bail.

Application is, accordingly, rejected.

[A.S. GADKARI, J.]