IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3252 OF 2018

Sandeep Zhilu Sodaye ….Applicant.

Vs.

The State of Maharashtra ….Respondent.

Mr. Nitin Deshpande for the Applicant.
Ms. Rutuja Ambekar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 13th MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. 179 of 2018 dated 28th March, 2018 registered with Powai Police Station, Mumbai under Sections 420, 408, 406 r/w Section 34 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge-sheet.

3 It is the prosecution case that, the principal accused Jayesh K. Mahajan was employed with the informant's company namely Asanjob Private Limited as a Finance and Account Manager. The said principal accused in connivance with other three accused persons has

defalcated a sum of Rs.58,33,942/- of the said Company by diverting the funds of the said company in the accounts of co-accused including the present Applicant. It is alleged that, the Applicant is beneficiary of about Rs.18,00,000/- in the present crime.

During the course of investigation, the Applicant came to be arrested on 22nd April, 2018 and after completion of investigation, police have submitted charge-sheet.

4 As per the prosecution case, the Applicant was working as an Assistant Administrative Executive in the Complainant Company. It is stated in the proforma charge-sheet that, the work of the Applicant was to deliver courier, take out printing from the printers and filing of the papers in the office. *Prima facie,* it appears that the Applicant was performing work of glorified peon and nothing more than it.

5 The learned counsel for the Applicant submitted that, it is under the instructions of Jayesh Mahajan (principal accused) who was the head of the Department, the amounts were deposited in his accounts and under his further directions, the same were withdrawn by using ATM card and were handed over to Jayesh Mahajan. He further submitted that, the Applicant might have been benefited for

some paltry sum out of the said total amount deposited in his account.

6 *Prima facie*, it appears that there is substance in the said contention. It further appears from the record that, the principal accused Jayesh Mahajan has purchased various luxurious household articles for his personal benefit from the defalcated amount and it further appears that the said principal accused Jayesh Mahajan by coercing his sub-ordinate staff, has made them to accept the diverted funds in their own accounts and has subsequently withdrawn the same. Perusal of charge-sheet would indicate that, apart from the afore-stated facts, there is no other role attributed to the Applicant and therefore, the Applicant can be released on bail.

Hence, the following order.

a) The Applicant be released on bail in C.R. No. 179 of 2018 registered with Powai Police Station, Mumbai on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.

b) After his release from Jail, the Applicant shall attend all the dates before the Trial Court unless precluded on medical grounds.

c) In case of two consecutive defaults, the Investigating Officer is at liberty to file an Application for cancellation of bail.

d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)