IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.669 OF 2019
Ganesh s/o Kachruji Khandagale .Vs. State of Maharashtra,through P.S.O, P.S. Chikhali, Tq. Chikhali, Dist. Buldhana.

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. V.G. Dhande, Advocate for applicant.
Mr. N.R. Rode, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.
DATED : OCTOBER 17, 2019

1. Heard Mr.Dhande, learned counsel for the applicant and Mr.Rode, learned Additional Public Prosecutor for the State. Also perused the detailed reply filed on behalf of the prosecution.

2. It is the submission of the learned counsel for the applicant that the applicant is not having criminal antecedent at his discredit and he is ready to abide by any condition that may be imposed on him. He submits that he has not committed any sin and in spite of that he is roped in the crime. He, therefore, submits that the application be allowed.

3. Mr. Dilip Bagde, Auditor of Cooperative Societies, Buldhana had conducted audit of Mahatma Fule Nagari Shakari Pat Sanstha Limited, Chikhali. The audit period was from 01.04.2016 to 31.03.2018. The Auditor while conducting the audit found that there is a misappropriation

of amount of Rs.1,47,20,329/-. He, therefore, lodged a complaint and on the basis of which Crime No.412/2019 was registered with Police Station, Chikhali, Tq. Chikhali, Dist. Buldhana for an offence punishable under Sections 420, 409, 406, 468, 470, 471, 477-A read with Section 34 of the Indian Penal Code, 1860 read with Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, in which the applicant is apprehending his arrest.

4. Admittedly the present applicant is the Branch Manager and was the Branch Manager of the said society during the period of audit. It was not the submission of learned counsel for applicant that applicant was not having any concerned with day-to-day business of society. Therefore, it can be reasonably deduced that he was having control over the day-to-day business of the society, looking to the post he was holding.

5. The reply would show that the process of recording of statement of the small investors is going on and it is yet to be completed. The reply would show that the investigating officer could notice a person during the investigation in whose name the loan was sanctioned and was disbursed. However, said person never applied for the loan. The reply also shows that the District Deputy Registrar of the Societies was required to appoint an Administrator over the society. The hard earned money of the small depositors is swindled by the present applicant in

connivance with other co-accused persons and they are exposed to all sorts of vagaries.

6. The nature of the offence would show that it is an economic offence. So the applicant could be termed as a white collar offender. The offence is committed with cool and calculated method by the present applicant who was having direct control over the entire affairs of the society.

7. In my view, the economic offences are most serious one rather I would place them even above the offence punishable under Section 302 of the Indian Penal Code since the said offence is only against a person however, the white collar economic offences are against societal interest and it is expected that the Court should not exercise discretion in favour of such person.

8. The investigation is at very initial stage. In that view of the matter, in my view, the custodial presence of the present applicant is absolutely necessary for conducting the investigation properly to give justice to the depositors who have lost their amount.

9. The criminal application is, therefore, rejected.

JUDGE

srwagh