

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

933 BAIL APPLICATION NO.612 OF 2021

Kurban S/o.Zairuddin Shaikh,
Age : 25 Years, Occup. Pvt. Service,
R/o. At Post Katgaon,
Tq. Kallam, Dist. Osmanabad.

...APPLICANT

VERSUS

The State of Maharashtra
Kallam Police Station, Kallam
Taluka Kallam District Osmanabad
Through its Investigating Officer.

... RESPONDENT

Shri. Ramraje P. Magar, Advocate for the applicant
Shri. S. P. Sonpawale, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 7th September, 2021

PER COURT :-

1. Heard.
2. Prosecution case in brief is that the informant is a Unit Manager in Bharat Finance Inclusions Limited. The business of this company is to give loan of small amount to poor and needy woman. One Shri. Shivaji Kisanappa Shirole is a Branch Manager of Kalamb 'A' Branch. Siddhaji

Vyankatrao Patil and Kurban Zairuddin Shaikh (applicant herein) are working as Sangam Manager.

3. It is further alleged in the FIR that on 18th June, 2019, the informant visited Kalamb branch. The informant demanded cash book from Branch Manager Shivaji Shirole but he avoided to produce it. When he verified cash book, he noticed that entries of cash for some days were not taken in it. He sent for accountant Sudhir Kailas Kakde and with his help he verified cash book. It was revealed during interaction with Sudhir Kakde that amount of Rs. 25,48,953/- was kept in locker. On opening locker, the said amount of Rs.25,48,953/- was not there in the locker. The informant then realized that the Branch Managers Shivaji Shirole, Siddhaji Vyankatrao Patil and the applicant had collected amount from borrowers but did not deposit in the Company and they misappropriated total amount of Rs. 36,24,674/-. On these allegations crime came to be registered vide CR No. 195 of 2019 with Kallam Police Station, District Osmanabad under Sections 406, 409, 420, 418, 465, 467, 468, 471, 477(A), 201 read with Section 34

of the Indian Penal Code.

4. Learned counsel Shri. Magar for the applicant submitted that charge-sheet is filed. There is nothing on record to indicate that the applicant had misappropriated the amount. No borrower had complained that amount was collected from him but the same was not deposited with the Company. He submits that his job was to collect the amount from the borrowers and give it to the Manager. According to him whatever amount he had collected was given to the Manager. Applicant is not the manager but he is a recovery agent of the financial company. Therefore, no offence is committed by the applicant.

5. Learned APP Shri. Sonpawale for the respondent/State submits that a Tab was given to the applicant. On verification of Tab it was found that applicant had collected amount from the borrowers. Some borrowers had paid the amount online. But the applicant did not deposit the same in the Company. In this manner he has committed misappropriation to the tune of Rs. 7 lakhs and

odd amount.

6. On perusal of the papers annexed with the application it is seen that not a single borrower has complained that amount was collected by the applicant from him but it was not deposited with the Company. Statements of borrower also not recorded. Charge-sheet is filed. Applicant is in jail since last more than 9 months. Applicant does not have any criminal background. This is his first offence. Having regard to this and the fact that the applicant will be available for trial and there is no likelihood of committing same offence again, I am inclined to release the applicant on bail on some conditions. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with CR No. 195 of 2019 under Section 406, 409, 420, 418, 465, 467, 468, 471, 477(A), 201 read with Section 34 of the Indian Penal Code registered with Kallam Police Station, Dist.

Osmanabad and on condition that he shall not leave the jurisdiction of the Court without the prior permission of the concerned Court.

3. Application is disposed of.

4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same.

[M. G. SEWLIKAR, J.]

ssp