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

ANTICIPATORY BAIL APPLICATION NO. 936 OF 2021

Chandrashekhar s/o Devidas Deshmukh,
Age : 44 years, Occu. Labourer,
R/o. Patil Gadhi, Chopda,
Tq. Chopda, Dist. Jalgaon. ...**Applicant**

Versus

The State of Maharashtra ...**Respondent**

.....
Mr. Chandrakant R. Thorat, Advocate for the applicant
Mr. S. B. Narwade, APP for respondent / State
.....

CORAM : V. G. BISHT, J.

RESERVED ON : 02nd September, 2021
PRONOUNCED ON : 08th September, 2021

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 0224 of 2021, registered with Chopda City Police Station, District Jalgaon, for the offences punishable under Sections 406, 409, 420, 465, 468, 471 r/w 34 of the Indian Penal Code.

2. It is the case of prosecution that the informant, who is a certified Auditor, has carried out the audit of Maratha Samaj Urban

Cooperative Credit Society Ltd., Chopda (hereinafter referred to as "Credit Society") for the period 01.04.2018 to 31.03.2020 and accordingly, submitted report to the Assistant Registrar, Cooperative Societies, Chopda.

3. It is alleged in the audit report that the office bearers of the said Credit Society has committed illegalities and misappropriated the funds and the allegation is particularly against the Chairman – Kiran Devidas Deshmukh, Manager – Manoj Bansilal Visave and the the present applicant. One of the allegations is that Rs. 1,86,950/- was overpaid against the deposits. The next allegation is that the less amount of interest has been charged which caused loss of Rs.9,59,541/- and the last allegation is that the said Credit Society has paid Rs. 45,000/- as loan to one Chotubhai on 25.04.2018 and the same is pending against him till today. Moreover, the original receipts of fixed deposits of mortgage have not been kept in the custody of the said Credit Society. Accordingly, the FIR came to be filed against the said persons and the applicant.

4. Mr. Chandrakant R. Thorat, learned Counsel for the applicant, submits that the applicant was working as a Clerk and he

was not the decision taking authority. The applicant was working under the control of Manager, namely, Manoj Visave. The applicant had no power to grant loan, receive FDs or for that matter was responsible for recovery of loan amount.

5. The learned Counsel then submitted that the said Manager – Manoj Visave has given a affidavit thereby taking the responsibility for repayment of the recurring fixed deposits to the consumers of the Recurring Agent – Mahendra Vishwanath Patil. According to learned Counsel, the Manager has already been released on anticipatory bail. There is no necessity of the custodial interrogation of the present applicant and in such circumstances, the application deserves to be allowed.

6. Mr. S. B. Narwade, learned APP, on the other hand, vehemently opposed the submissions and invited my attention to the audit report wherein the responsibility was fixed on Chairman of the said Credit Society. According to learned APP, applicant is the real brother of the Chairman and he himself was a Cashier. Learned APP further submitted that having regard to the nature of serious allegations, the custodial interrogation of the applicant is necessary.

7. First of all, I would like to make it clear that the prosecution has alleged that the applicant was working in the capacity of Cashier whereas, the certificate filed on record by the learned Counsel for the applicant and issued by said Credit Society shows that the applicant was working as a Clerk since 2002 and ultimately he tendered resignation letter (Exh. 'G') on 25.02.2020 from the post of Clerk. These two documents have not been controverted in any manner by the prosecution.

8. The next document is an affidavit (Exh. 'H') dated 08.01.2019, sworn in by the Manager – Manoj Visave, wherein he owed the responsibility in respect of amount of Rs. 2,98,550/-.

9. The learned APP has produced on record the investigation papers. On perusal of the same, it is seen that the various deposit receipts are issued under the signature of Accountant and Manager and admittedly, those receipts did not bear the signature of applicant. It appears that the Investigating Officer has seized all the relevant documentary evidence. The whole case is based on documents.

10. Having regard to the above discussion and the fact that the complicity of the present applicant is not directly and *prima facie*

established, in my considered opinion, the present application deserves consideration.

11. In view of above, I pass the following order.

ORDER

i. In the event of arrest of the applicant, namely, Chandrashekhar Devidas Deshmukh in connection with Crime No. 0224 of 2021, registered with Chopda City Police Station, District Jalgaon, for the offences punishable under Sections 406, 409, 420, 465, 468, 471 r/w 34 of the Indian Penal Code, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.25,000/- [Rs. Twenty Five thousand], with one or two solvent sureties in the like amount.

ii. The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

iii. The applicant shall not tamper with the prosecution evidence in any manner.

12. The Anticipatory Bail Application stands disposed of in aforesaid terms.

[V. G. BISHT]
JUDGE