

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1961 OF 2019**

Devashish Bhagwant Deshpande

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.N.M. Nadar for Applicant.

Mrs.M.H. Mhatre, A.P.P. for Respondent No.1-State.

CORAM : A.S. GADKARI, J.

DATE : 7th August 2021.

PC. :

1. Heard Mr.Nadar, learned counsel for the Applicant and Mrs.Mhatre, learned A.P.P. for Respondent No.1-State. Perused record.

2. By an Order dated 9th September 2019 the Applicant was granted interim relief and was directed to attend the Investigating Officer on stipulated dates to join the process of investigation.

3. First Information Report is lodged by one of the co-resident of Oshiwara Yashodeep Co-operative Housing Society Limited, Mumbai. The prosecution case in brief is that, the said Society received a notice from MHADA on 15th November 2017, thereby calling upon the members of the said Society to pay Lease Rent of approximately Rs.8.6 crores. The Applicant was Secretary of the said Society at that relevant time. He persuaded members

of the said Society to contribute Rs.1,25,000/- each for payment of assessment tax, legal charges and other expenses to be born for reduction of the said lease rent. The Applicant spent approximately Rs.11,90,915/- from the said collected amount and it is alleged that, he defalcated a sum of Rs.21,45,000/- of the members of the said Society.

4. Record indicates that, the Applicant has filed an affidavit dated 9th September 2019 before this Court that, he was ready and willing to deposit the said sum of Rs.21,45,000/- in this Court without prejudice to his rights and contentions in the Registry of this Court within a period of 10 days. The said fact is recorded in the Order dated 9th September 2019 while granting interim relief to him.

Note put up by the Registry mentions that, the Applicant has deposited the said amount of Rs.21,45,000/- in the Registry of this Court on 1st October 2019.

5. The Investigating Agency is seeking custody of the Applicant predominantly on the ground for recovery of the said amount. As the Applicant has deposited the said alleged defalcated amount in the Registry to prove his bonafide, according to this Court, his custodial interrogation for further investigation of the present crime is not necessary.

6. Learned A.P.P submitted that, in pursuance of Order dated 9th September 2019, the Applicant has attended the Investigating Officer and has

co-operated in the process of investigation. She on instructions from Investigating Officer Mr.Mahendra Puri, A.P.I., further submitted that, the investigation of the present crime is practically completed and the Police would submit Chargesheet within a period of two weeks from today.

7. In view of the above, interim relief granted by Order dated 9th September 2019 is hereby confirmed. However, the condition to attend the Investigating Officer is waived.

8. Anticipatory Bail Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]

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