

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

CRIMINAL APPLICATION (BA) NO. 1086 OF 2021

(Shri Abhishek s/o Khemchand @ Khemdev Meharkure ..vs.. State of Maharashtra, through PSO, PS
Kotwali, Nagpur and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C.S. Dharmadhikari, Counsel for the applicant,
Mr. N.S. Rao, Addl.P.P. for the non-applicants/State.

CORAM : ROHIT B. DEO, J.

DATED : 25-11-2021

The applicant is seeking bail in connection with Crime 217/2019 registered at Kotwali Police Station, Nagpur for offences punishable under Sections 409, 420, 467, 468, 471 and 120-B read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. Crime 217/2019 is registered pursuant to order dated 01-7-2019 passed by the learned Judicial Magistrate First Class, Court 8, Nagpur in an application under Section 156(3) of the Criminal Procedure Code, 1973 preferred by Mr. Dinesh Padegaonkar.

3. The prosecution case is that the funds of Jai Shriram Urban Credit Co-operative Society Limited (Society) were misappropriated, with the result that several depositors, including the complainant Mr. Dinesh

Padegaonkar, were left high and dry.

4. The Special Auditor Mr. Nitin Kondawar conducted audit of the Society for the period 2015 to 2018 and categorised the alleged irregularities under 23 heads.

5. Perusal of the audit report reveals that the Chairman and the Manager are considered to be mainly and directly responsible for the financial irregularities, and by and large, the accusation against the Members of the Board of Directors, appears to be failure in the collective responsibility to prevent financial irregularities.

6. The applicant is one of the Directors of the Society and happens to be the son of the Chairman. Several Directors are released on bail. Perusal of the charge-sheet, particularly the gist of the allegations, reveals that there is no significant difference in the role attributed to the applicant and the role attributed to the Directors, who are released on bail. However, it is alleged that the forensic audit report reveals entry/entries of Rs.24,77,100/- (Rupees Twenty Four Lac Seventy Seven Thousand One Hundred) in the personal account of the applicant. The deposit is in cash. At this stage, there is no material on record, to decisively connect the said deposit with the alleged misappropriation.

7. In any event, considering that the applicant is in

custody since more than eleven months, the fact that there is no possibility of an early trial given the girth of the charge-sheet and the number of witnesses which the prosecution is likely to examine, I do not see any propriety in continuing the incarceration.

8. I note that the evidence is documentary and the chances of the applicant being in a position to tamper with such evidence, is slim. It is not even argued by the learned Additional Public Prosecutor Mr. N.S. Rao that the applicant poses a flight risk. The applicant is, therefore, entitled to bail.

9. Record reveals that there is an application preferred by Mrs. Kunda Ramchandra Kewate seeking to assist the prosecution. However, none appeared during the hearing to press the said application.

10. The application is allowed.

11. Applicant Abhishek S/o Khemchand @ Khemdev Meharkure be released from custody in connection with Crime 0217/2019 registered with Kotwali Police Station, Nagpur for offences punishable under Sections 409, 420, 467, 468, 471 and 120-B read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, subject to the following conditions :

(i) The applicant shall furnish PR bond of ₹ 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount.

(ii) The applicant shall not make any attempt to influence or pressurize the witnesses.

(iii) The applicant shall not leave the country without the permission of the trial Court.

JUDGE

adgokar