

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

ANTICIPATORY BAIL APPLICATION NO.544 OF 2022

Vikas Bhaskarrao More

...Applicant

VERSUS

The State of Maharashtra

...Respondent

...

Mr. Sachin S. Deshmukh, Advocate for the applicant.

Mr. G.O. Wattamwar, APP for the respondent-State.

...

CORAM : S.G. MEHARE, J.

DATED : 14th JUNE, 2022.

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.

2. Learned counsel for the applicant Shri Deshmukh has argued that the alleged incident happened in 2019. However, the complaint was lodged first time in the year 2022. Having regard to the allegations levelled against the applicant, the custodial interrogation of the applicant is not at all required. The Investigation can be made based on the documents available with the bank. The applicant has also been transferred from the branch of Sengaon where the alleged incident happened 18 months back. No previous enquiry to the previous irregularities was made by the employer, and he was never called upon to explain the irregularities. He was discharging his duties honestly and sincerely. His 16 years of service are

unblemished. For the irregularities, the employee cannot be charged with the offence of fraud and misappropriation of the funds. He requested to allow his application.

3. Learned APP would point out that the misappropriation of the funds was unearthed when the borrower learnt that the applicant withdrew the amount from her account by transferring it to the third person. She made the complaint, and then the wheel of Investigation was put into motion, and it was transpired that the amount from the account of the borrower was transferred to the third person and the applicant collected that amount of Rs. 1,60,000/- from him in cash. The applicant has committed serious irregularities. The Investigation officer wants to unearth the other irregularities committed by the applicant, if any. It is an offence committed by a person, the facts of which are within his knowledge. Hence, custodial interrogation is necessary. Prima facie, the applicant has put the bank to the loss and played the fraud with the borrower. He strongly opposed the application and prayed to dismiss the application.

4. Perused the application and the case diary. The learned APP would point out the statement of the witness that reveals that the applicant had transferred the loan deposited in the borrower's account to the third person. Then he went to him and brought to his notice that the amount of Rs.1,60,000/- was transferred to his account from the account of the borrower. Surprisingly, instead of

re-transferring the amount in the bank account of the borrower, he has collected the said amount of Rs.1,60,000/- in cash. A perusal of the investigation papers further reveals that prima facie evidence is available against the applicant. The misappropriation in the bank must be in the knowledge and head of the applicant. The applicant is the best person who knows how many such cases he has done and how much money has been misappropriated. The matter relates to the misappropriation of public money. The offence is grave. The material collected by the Investigating Officer against the applicant prima facie shows that he has committed the fraud and misappropriated the public money afterthought.

5. Having regard to the nature of the offence, this Court is of the view that the custodial interrogation of the applicant is necessary. Therefore the applicant is not entitled to the anticipatory bail, and hence, the application stands dismissed.

(S.G. MEHARE, J.)