

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

912 BAIL APPLICATION NO.1652 OF 2021

Shamsundar S/o Shankar Khamkar
Age: 55 years, Occu.: Service,
R/o. Kharvandi Road, Sonai,
Tq.Newasa, Dist.Ahmednagar.

..Applicant
(Orig. Accused)

VERSUS

The State of Maharashtra
Through Police of Sonai
Police Station, Aurangabad,
Taluka and District Aurangabad.

..Respondent

...
Advocate for Applicant : Shri Chaitanya C. Deshpande
APP for Respondent : Shri R.D.Sanap

...
CORAM : M.G.SEWLIKAR, J.

DATE: 9th March, 2022

PER COURT :-

1. By this application under Section 439 of the Code of Criminal Procedure, applicant is seeking his enlargement on bail in connection with Crime No.I-11 of 2018, registered with Sonai Police Station, Dist.Ahmednagar, under Sections 406, 409, 418, 420, 467, 468, 471, 201, 120-B of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act (M.P.I.D. Act).
2. Prosecution's case in brief is that accused No.2 - G.H.Gore

was working as a Clerk in Vyankatesh Gramin Bigar Sheti Sahakari Patsanstha, Sonai, Tq.Newasa, Dist.Ahmednagar. Accused No.3 - G.A.Tandale was working as a Cashier in the said Patsanstha. Applicant was working as Manager in the said Patsanstha. These two accused and the applicant in connivance with each other, misappropriated huge amount of the said Patsanstha. In the Audit, misappropriation was noticed and thereafter, FIR came to be filed on 1st February 2018. Applicant was arrested on 9th April 2018 and since then he is behind bars.

3. Heard Shri C.C.Deshpande, learned counsel for the applicant and Shri R.D.Sanap, learned APP for the respondent.

4. Shri Deshpande, learned counsel for the applicant submits that all the other accused except the applicant have been released on bail. He submits that Chairman and Directors, who had taken loan from the said Patsanstha have also been released on anticipatory bail by this Court. Accused No.2 - Gore and accused No.3 - Tandale have been released by this Court on regular bail on condition of depositing the amount. He submits that the applicant admits that he had taken loan from the said Patsanstha and he had repaid loan to some extent. He has mortgaged the property with the said Patsanstha and the

Patsanstha is at liberty to sell this property to satisfy the loan amount. He further submits that so far as salary advance is concerned, he had taken Rs.90,000/- as advance and he has repaid it. He disputes other details of misappropriation. He further submits that applicant is behind bars since the date of his arrest i.e. close to four years. He submits that even charge is not framed and trial is not likely to be concluded in near future.

5. Learned APP for the respondent-State submits that accused No.2 - Gore and accused No.3 - Tandale have been released on bail by this Court on depositing 50% of the misappropriated amount and on condition of depositing remaining 50% amount within a specified period. He submits that applicant is not giving any kind of such assurance. He submits that the amount misappropriated is huge. He does not dispute that all the other accused have been released on bail except the applicant.

6. Admittedly, investigation is complete and charge-sheet is filed. Applicant has shown readiness to deposit the amount by selling the mortgaged property. Shri Deshpande, learned counsel for the applicant has produced the copy of Roznama taken from CIS which shows that charge is still not framed. In this backdrop, there is no propriety in keeping the applicant behind bars for an

indefinite period. Entire evidence is documentary in nature. All the other accused have been released on bail except the present applicant.

7. Shri Deshpande, learned counsel for the applicant, to show his bonafides, submits that applicant will deposit Rs.30,00,000/- in the Court within a period of one year.

8. Applicant is behind bars for close to four years. All the other accused have been released on bail. Shri Sanap, learned APP for the respondent does not dispute that the Chairman and the Directors had also taken loan from the Patsanstha. They have been released on bail. Therefore, on the ground of parity also applicant is entitled to be released on bail. Shri Deshpande, learned counsel for the applicant submits that this is the first application for bail in this Court after filing of the charge-sheet. Considering this, applicant can be released on bail by putting some condition :-

ORDER

- i) Bail Application is allowed.

ii) Applicant be released on P.R.Bond of Rs.50,000/- (Rs. Fifty thousand only) with one solvent surety in the like amount, in connection with Crime No.I-11 of 2018, registered with Sonai Police Station, Dist.Ahmednagar, under Sections 406, 409, 418, 420, 467, 468, 471, 201, 120-B of the Indian Penal Code and under Section 3 of the M.P.I.D. Act, and on condition that he shall deposit an amount of Rs.30,00,000/- within a period of one year.

iii) If applicant fails to deposit the aforesaid amount, the respondent-State is at liberty to move the Court for cancellation of bail.

(iv) Amount be deposited in this Court or in the trial Court.

(v) Bail Application is disposed of.

vi) It is clarified that the observations made in this order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M.G.SEWLIKAR)
JUDGE