

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO.5869 OF 2005

Shri Girish Manohar Deshpande ...Applicant  
Vs.  
The State of Maharashtra ...Respondent

Mr. Niranjana Mundargi for the Applicant.  
Ms M.M. Deshmukh, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.  
DATE : SEPTEMBER 30, 2005.

P.C.:

1. At the outset the learned A.P.P. pointed out that though a direction was given on 28th September, 2005 to the Applicant to remain present in the Court, he is not present. The learned Senior Counsel appearing for the Applicant stated that the Applicant is not present. Though Application can be rejected only on this ground, I have proceeded to consider the merits of the Application.

2. Submissions of the learned Senior Counsel appearing for the Applicant were heard on last two dates. The offence has been registered against the Applicant and other co-accused on the basis of a report of a Government approved Auditor. The report is relating to the accounts of a Credit Society of which the Applicant was at the relevant time the Secretary. The offence has been registered under

section 408 and 420 of the Indian Penal Code. The allegation against the Applicant are as under:

- (i) The Applicant has withdrawn a total sum of Rs.6,60,000/- from the Credit Society for the purposes of making payment to a fair price ration shop and no record relating to the said payment is available.
- (ii) The Applicant allegedly made payment of interest of Rs.01,87,000/- to the members and the signatures of the members are not on record.
- (iii) Sum of Rs.01,49,500/- was not shown by the Applicant in the Account Books and for the said amount receipts have not been prepared.
- (iv) On 30th January, 2003, the Applicant under a voucher has withdrawn sum of Rs.5 lacs in cash for the purpose of

depositing the same in the Bank Account and he has failed to deposit the same in the Bank Account.

3. The learned Senior Counsel appearing for the Applicant stated that apart from the Applicant there are other office bearers of the Credit Society and the Applicant was not responsible for the day to day activities of the Society. He submitted that the allegations made in the F.I.R. at highest constitute a dispute regarding entries in the accounts of the society and by no stretch of imagination offence of cheating or breach of trust is made out. He submitted that entire case is based on documentary evidence and therefore, the custodial interrogation of the Applicant is not required.

4. On the last date when a query was made as to whether the Applicant was willing to bring back the alleged involved amount, the learned Counsel for the Applicant took time and accordingly time was granted till today. The learned Senior Counsel submitted that the Applicant is not in a position to arrange for any amount.

5. The learned A.P.P. has placed on record the necessary material for my perusal and submitted that in this case custodial interrogation is required.

6. I have considered the submissions. The case of the prosecution seems to be that all monitory transactions of the Credit Society were made under the signatures of the Chairman and the Secretary. The allegation against the Applicant is that he has withdrawn more than sum of Rs.11 lacs in cash for different purposes and the same amount has not been accounted for. Thus, the allegations against the Applicant who was Secretary of the Credit Society are of very serious nature. Considering the nature of allegations, custodial interrogation of the Applicant is required. Considering the gravity of allegations and nature of the offence alleged, in my view, no case is made out for grant of Anticipatory Bail and the Application is rejected.

**JUDGE**