

against all the Directors, Branch Manager, staff members, Recovery Officers and the beneficiaries. The crime bearing CR No. 158/2021 was registered against the applicant and others. The applicant was arrested on 21.02.2022 and since then he is in custody.

3. The learned counsel Mr. R.J.Kasliwal appearing for the applicant/accused has argued that applicant has not committed any offence. He is not concerned with the crime. The applicant is the Chairman of the Society since last 15 years. He has not participated in day to day affairs of the Society. The entire work was managed by their Manager Mr. Kolhe. When he came to know about the alleged fraud and misappropriation, he immediately called the meeting of the Society Members and Mr. Kolhe was questioned about the same in the presence of all. He confessed his guilt and accordingly executed Kabuli Patra(कबुली दस्त) to that effect. On the basis of this document, the applicant started recovering misappropriated funds from him and major amount was recovered from Mr. Kolhe. The applicant also issued letter to the Competent Authority for conducting the audit of the Society for the disputed period. On the basis of his letter only, the audit was conducted. The learned counsel says that the initiative taken by the applicant itself shows his bonafide that he was not involved in any kind of misappropriation. The Society had initiated various proceedings to recover the loan amount against the defaulters also. Further, there is no specific allegation levelled against the applicant. The offence is not attracted against the applicant. The investigation is based on the documents and related documents are already with the investigating agency and nothing remained to be seized from the custody of applicant. The misappropriation is of the

year 2013 to 2015 and major amount is recovered. The applicant is not the beneficiary in any way. His custodial interrogation is already over. His further detention is not required. Considering the nature of the offence, he prayed for grant of bail to applicant/accused.

4. The Investigating Officer has filed his reply at **Exh.5** and strongly opposed the application stating that the offence is serious in nature and applicant is the key accused in this crime. There was misappropriation of funds to the tune of Crores of Rupees. He further submitted that applicant alongwith accused No.1 issued cheque of Rs.5,00,000/- to Vishal Bagade on 31.03.2012 and said Vishal Bagade had withdrawn the said amount for his own benefit. So also, there are withdrawal of amount of Rs.41,40,000/- in the name of co-accused Ravindra Madhwai and Balasaheb Madhwai and on interrogation, the applicant has given evasive answers in that respect. The total misappropriation is to the tune of Rs.2,76,01,040/- and thus applicant in collusion with others, cheated the account holders of the Society. From the audit report, it is clear that though amount shown outstanding towards small savings, fixed deposit, advance against shares but the said amount is not shown as credited in the accounts of Society and that amount comes to Rs.16,79,540/-. The misappropriation started from the year 2008 when applicant was Director of the said Society and though he has knowledge of the same, he has not taken any efforts to stop such irregularities and illegalities. If applicant is released on bail, he may pressurize the witnesses and may tamper with evidence. The investigation is still in progress.

The Ld. APP Smt. Reshma Jadhav has strongly

submitted her argument in the line with the say filed by the investigating officer vide Exh.8. She submitted that the offence is socio-economic and against the Society. The applicant has signed withdrawal fixed deposit receipts but no such deposits are forthcoming with Ganesh Co-op. Bank. All deposit receipts are fake. Thus, the involvement of the applicant in the alleged misappropriation is appearing.

The learned APP has further submitted that Hon'ble High court has rejected his anticipatory bail application with the observation that when the applicant came to know about the fact that fixed deposits receipts are fake, he did not take any steps for bringing this to the notice of the Co-operative Authorities immediately. Thus his involvement is appearing. The investigation is still in progress and if he is released on bail, he may tamper with evidence.

5. After hearing both the sides and on going through the copy of the FIR, audit report, other relevant documents, prima facie, it appears that the case against the accused persons are of embezzlement of funds to the tune of Rs 2,76,01,040/-. The allegation is that the accused persons are running Society and are alleged to have embezzled the funds in the capacity of Chairman, Directors, Manager, employees etc. The report is lodged against 62 persons including all the Directors, Chairman, all staff members and beneficiaries.

As regards the applicant is concerned, the charges of forgery is levelled against him. No doubt the offence is serious in

nature. The contention of the defence that nature of dispute is civil is not at all acceptable. As the investigation is in progress, I am not inclined to grant the application. Hence, following order.

Order

Application is rejected.

Date : 14.03.2022.

(**Smt. S.S. Nair**)
Addl. Sessions Judge-4, Nashik.