

ORDER BELOW EXH.60 IN RCC NO.390/2021

1. The present application filed under section 302 of the Code of Criminal Procedure (Cr.P.C.).
2. Briefly stated, it is the contentions of the informant that he is Chief Executive Officer of Shankar Nagari Sahakari Bank Limited New Mondha Nanded. The bank is reputed bank in Marathwada region. That the first informant has given report to Vazirabad police station, whereupon offences punishable under sections 467, 468, 469, 471 and 420 of the Indian Penal Code (IPC) and under section 43, 66, 66-C and 66-D of Information Technology Act (I.T. Act) has been registered against accused.
3. Further it is contentions of first informant that charge against accused has been framed by this Court. The present matter is pertaining to huge amount of Shankar Nagari Sahakari Bank Limited New Mondha Nanded. It is necessary on the part of the informant to protect the interest of depositors. That the matter is bulky and technical aspects are involved. Considering the seriousness of this matter and bulky record exceptionally the permission to conduct prosecution through Advocate Shri. B. R. Bhosale (Private counsel) is requested.
4. On the present application say of the Ld. APP is sought. The Ld. APP filed his say (Exh.114) and submitted therein that it is true that interest of depositors is required to be protected. However, fair trial is required, if permission to conduct trial is provided through private counsel is permitted then according to the learned APP, it will not be fair trial. The trial will be conducted only in order to convict accused.
5. Having gone through the application and the say thereon, this Court heard Ld. counsel Shri. B. R. Bhosale, who wants to the permitted to conduct the trial on behalf of the informant and the Ld. APP at sufficient

length. The learned counsel Shri. B. R. Bhosale relied upon **Mrs. Dilnashin Shaikh Vs. State of Maharashtra**, wherein the following observations are made.

"On reading of Section 302 of Cr. P.C., it is clear that the Magistrate can give permission to conduct prosecution to any person if the application is made by a party. I do not find any other rider in the said section except seeking permission of the Magistrate".

6. Having gone through the above observations, I have gone through the section 302 of the Cr. P.C. which reads as follows-

"Permission to conduct prosecution.- (1) Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of Inspector; but no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to do so without such permission:

Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.

(2) *Any person conducting the prosecution may do so personally or by a pleader".*

7. Having gone through the provisions contemplated under section 302 of the Cr.P.C. this court has taken into consideration the observations of the Hon'ble Bombay High Court in Mrs. Dilnashin Shaikh (supra cited) case. It is observed that the present matter is bulky. It is true that the huge amount of money is involved in the matter. If the fully dedicated Advocate is engaged in the matter he can certainly conduct the matter in better way. Furthermore, the Ld. counsel who requested to appear on behalf of the informant is fully experienced and seasoned Advocate. As per his narration, he was also District Government Pleader. Therefore, in all respect, he is having good experience.

He can certainly conduct the matter in proper way. For all these reasons, I find no hurdle in grant of the application. Hence, the following order is passed.

ORDER

- 1) The application filed for grant of permission to conduct prosecution filed under section 302 of the Cr. P.C. is allowed.
- 2) The learned counsel Shri. B. R. Bhosale is permitted to conduct the prosecution.

Date : 17-03-2022.

(S. A. Khalane),
Chief Judicial Magistrate,
Nanded.