ORDER BELOW EXHIBIT-228 IN SPECIAL M.P.I.D. CASE NO. 01/2016. (State Vs. Shridhar and others)

1. Present application is filed by the applicant / accused under section 439 of the Code of Criminal Procedure, 1973, for bail.

2. Facts which gave rise for filing this application in short, are as follows :-

3. The said case came to be registered against the present applicant and the other accused for the offences punishable under sections 420, 406, 409, 109, 201 read with section 34 of The Indian Penal Code and under Section 3 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, which was registered on the basis of complaint lodged by one Digambar Anandrao Choudhary.

4. Applicant / accused is arrested in connection with the said offence on 20-08-2017 and since then he is in judicial custody and, therefore, he has filed this application on the following grounds :-

GROUNDS

5. He is falsely implicated in the said case by the investigating machinery, he is neither involved nor was

responsible in-charge for day to day business of the Kolpe Patil Multi State Co-operative Credit Society Ltd. and accused No.1 fraudulently persuaded him to become Director of the said society from 20-07-2012. However, on getting knowledge about some ill-intention of accused No.1 on 28-09-2015 this applicant has communicated his resignation to the said Society. He is the businessman and dealing with his business. No role was attributed to this applicant in connection with crime in question. He is respectable person and if he is put behind bar his family is likely to suffer because the entire family depends upon him and there is no other person to look after them. The ingredients of offences levelled against him are not made out. Custodial interrogation is over, many other accused are already discharged for the offence leveled against them same also released on bail. So this application has prayed for bail.

6. State has filed say and raised strong objection to allow this application on the ground that the offences in question are serious in nature in which public money are involved. Accused is resident of Hadgaon Dist. Nanded. He has active role to play in commission of the said offence. Moreover, he was involved in the society in question in the capacity as a Director during the period from 2012 to 2014. He was absconding from 18-10-2015 to 16-7-2017. Since he was absconding the trial was delayed & if he released on bail there is possibility of tampering

with the evidence and likely to pressurise the witnesses. Moreover, present applicant and accused No.1 have started the Multi-State Co-operative Society in question as they were having experience in financial sector. One more accused is still absconding. Moreover, he is having proceedings register of the said society in his custody and same is not yet recovered and if he is released on bail, he is likely to destroy it. He did not help the investigating machinery during the course of police custody. He is likely to repeat such offences again. The public money was never kept in fixed deposit and the same was used by this applicant and other accused for their own benefit but they have failed to disclose about the same and if he is released on bail he is likely to abscond. Moreover, false assurance were given to the investors to return their money. So also there was hand to hand transaction between accused No.1 and the present applicant. Another offence bearing C.R.No.410/2014 was also registered against this applicant with Mahagaon Police Station in Yavatmal District for the offences punishable under section 420 r.w.s. 34 of The Indian Penal Code. The investigation is still incomplete against this applicant and therefore, the State has prayed for rejection of this application.

7. Following points arise for my determination and I recorded my findings with reasons thereto, as follows :-

POINTS		**FINDINGS**
1.	Is applicant entitled for bail as sought for ?	...In the Affirmative.
2.	What order ?	... As per final order.

R E A S O N S

8. Heard Ld. Advocate A.C. Bajpai for the applicant and Ld. A.P.P. S.N. Chamle for State. Gone through the record. Also gone through the earlier bail orders as well as the order of discharge of the concerned accused and principles laid down in the cases of :-

1. **Pepsico India Holdings Pvt. Ldt. Vs. Food Inspector and Anr., AIR 2011 SC (Supp) 562, by Hon'ble Supreme Court on 18-11-2010.**

2. **Suresh G. Motwani (Dr.) & another Vs. State of Maharashtra & another, 2004 (Supp.1) Bom. C.R. 521, by Hon'ble Bombay High Court on 15-5-2003.**

3. **Smt. Manibai and another Vs. The State of Maharashtra, AIR 1974 Supreme Court, 434, by Hon'ble Supreme Court on 10-08-1973.**

4. Sham Sundar and others Vs. State of Haryana, AIR 1989 Supreme Court, 1982 by Hon'ble Punjab and Haryana High Court on 21-08-1989.

9. **<u>AS TO POINT NO.1</u>** : I have already stated that applicant has filed this application on various grounds, and the main ground raised by the applicant is that he was never dealing with day to day affairs of the Society in question. But Ld. A.P.P. Chamle has argued that there are statements of witnesses on record to show that applicant was participating in day to day affairs of the business of the said Society. Ld. Adv. V.V. Bajpai during the course of his argument has argued that the name of all the accused found mentioned in the statement of witnesses. Ld. A.P.P. S.N. Chamle has also argued that in the Audit report it is mentioned that all the Directors are liable for dealing with day to day affairs of the business of the Society but how is nowhere explained by Ld. APP Chamle. Ld. APP Chamle has argued that during one meeting at Pune all the Directors of the society have assured the investors that they would repay the money. Though such assurance is alleged to have made, I hold that such assurance would not fall within the definition of dealing with day to day affairs of the Company. It is further important to note that the other grounds raised by the applicant is that other Directors i.e. accused Nos. 4, 5, 7, 8 & 10 are already discharged from the charges levelled against them and apart from accused

No.1, other accused are already released on bail and the role of present applicant alleged is that is of similar that of other accused except accused No.1. Accused No.1 is not yet released on bail and it is also gathered from the submissions that accused No.1 has already appeared before Hon'ble High Court for quashing the F.I.R. Moreover, applicant has also submitted in writing about the details of his movable assets and has specifically contended that he do not have any immovable property. The grievance is raised that he was absconding since the commission of offence but this case is filed in the year 2016 and he has submitted his resignation with the Society in the year 2015 when he had realised about the ill-intention on the part of accused No.1. It is also gathered from the submissions that the concerned investigating machinery has approached before the Collector, Latur for seeking appropriate remedy regarding the property of accused No.1 and the Society in question. Moreover, it is also gathered that already he was in police custody and custodial interrogation is carried out. Though the grievance is raised regarding one Register which the investigating machinery is required to seize but in absence of any progress regarding the same during police custody and absence of any further steps by the police regarding the same and when applicant has filed this application on the ground of parity, I hold that though State has raised strong objection to allow this application, it would be proper to consider the relief as sought for but, by imposing stringent conditions. Hence, I answer point No.1 in the Affirmative and proceed to pass the following order :-

O R D E R

1. Application is allowed.

2. Applicant be enlarged on bail in Crime No.110/2015 registered with Nilanga Police Station for the offences punishable under sections 420, 406, 409, 109, 201 read with section 34 of The Indian Penal Code and under Section 3 of The Maharashtra Protection of Interest of Depositors(In Financial Establishments) Act, 1999, on executing P.R. Bond of Rs.25,000/-(Rs. Twenty Five Thousand only) with one or more solvent surety / sureties in like amount, subject to the conditions that he should attend the office of Economic Offence Wing, Latur on every Monday in between 10.00 a.m. to 2.00 p.m. for the period of one month from the date of his release on bail and should produce on record the documents to show his residence and business and should not pressurize the prosecution witnesses and tamper with the prosecution evidence and should not leave Nanded and Latur Districts without prior permission of this Court, till further orders.

3. Inform concerned Police Station accordingly.

Dated: 21-09-2017. (Sunil V. Ranpise)
Addl. Sessions Judge, Nilanga.