

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2664 OF 2015

[Manohar Dinkar Patil & anr. Vs The State of Maharashtra & anr.]

CRIMINAL APPLICATION NOS. 2665 AND 2700 OF 2015

CRIMINAL APPLICATION NOS. 2701 AND 2702 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri V.P.Latange, advocate for applicants in Criminal Application Nos. 2664 and 2665 of 2015
Shri Vijay Patil, advocate for applicants in Criminal Application Nos.2700 and 2701 of 2015
Shri Pramod Gaikwad, advocate h/f
Shri D.B.Thoke, advocate for applicant in Criminal Application No. 2702 of 2015
Shri U.S.Mote, A.P.P. for the respondent/State

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CORAM : V.M.DESHPANDE, J.
DATED : 30th June, 2015

PER COURT :-

1] The applicants have filed these applications for anticipatory bail apprehending their arrest, in connection with Crime No. 63 of 2015, registered at Jamner police station, District Jalgaon, for the offences punishable under Sections 420, 406, 409, 120-B of the Indian Penal Code; under Sections 73(1/A and B), 146, 147 of the Maharashtra Cooperative Societies Act; and under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Institutions) Act.

Since all the applications arise out of the same crime, those are decided by this common order.

2] I have heard Shri V.P.Latange, learned counsel for applicants in Criminal Application Nos. 2664 and 2665 of

2015; Shri Vijay Patil, learned counsel for applicants in Criminal Application No.2700 and 2701 of 2015; Shri Pramod Gaikwad, advocate h/f Shri D.B.Thoke, learned counsel for applicant in Criminal Application No. 2702 of 2015; and Shri U.S.Mote, A.P.P. for the respondent/State.

3] Criminal Application Nos. 2664, 2665 and 2700 of 2015 are filed by the Ex-Directors of Kalpataru Gramin Bigar Sheti Sahakari Pat Sanstha Limited, Neri, Taluka Jamner, District Jalgaon; whereas Criminal Application Nos. 2701 and 2702 are filed by the Auditors duly appointed by the Cooperative Department for conducting the audit of Kalpataru Gramin Bigar Sheti Sahakari Pat Sanstha Limited, Neri.

4] A written report is lodged by the statutory auditor of Cooperative Department, Jalgaon Shri Rajesh Ramesh Kalantri on 10.4.2015. The said complaint discloses that statutory audit under the directions of the Deputy Registrar, Cooperative Societies was conducted. The audit period is 1.4.2007 to 31.3.2008. The period of the applicants who are Ex-Directors is 1.4.2007 to 31.3.2008; whereas applicants who are auditors have conducted the audit during this statutory audit period.

5] The complaint which is registered as first information report is in three parts. The first part is daily deposits, second part is sanctioning of loans without following due procedure and third part is the statutory audit.

None of the applicants is held to be responsible in the first information report in respect first part i.e. daily deposits, except general statement that the auditors and all the Managing Committee members ought to have been vigilant. The entire accusation in respect of daily deposits revolves around one Pradeep Ramesh Chopade who is the Manager and Praveen Ramesh Chopade who is brother of Pradeep

and Pigmy agent. The said accusation cannot be considered as one of the incriminating circumstance against any of the present applicants.

So far as second part of accusation i.e. grant and sanction of loans to the members that pertains to the applicants in Criminal Application Nos. 2664, 2665 and 2700 of 2015, according to the reply and first information report, without obtaining mortgage the loans are sanctioned. The loans are sanctioned without obtaining the prior approval in the meeting of the Managing Committee and signature of the Chairman is not appearing while granting and sanctioning the loans.

The Vacation Judge has granted interim relief to these applicants on 26.5.2015. While granting interim relief, this court directed each of the Directors to deposit total amount for such sanction of loan, which comes to Rs.1,38,000/-. Accordingly, amount of Rs.1,38,000/- is already deposited by all the applicants. That fact is not disputed by the investigating officer. In fact, the reply is having concurrence for the same.

6] The applicants, who are the Ex-Directors are not having any control over the day-to-day management of Kalpataru Gramin Bigar Sheti Sahakari Pat Sanstha Limited, Neri. Further, according to the reply of the investigating officer, all the documents, such as Dead Stock Register, Saving Account Register, Khatavani Book, Roz Kird Book, Cash Note Book, Proceeding Book are already seized and are in custody of the investigating officer.

7] In that view of the matter and looking to the fact that in pursuance to the directions given by this court the applicants have already deposited entire amount alleged to have been disbursed without following proper procedure, the Society is already secured to that extent. Hence, their custodial

presence is not at all required.

8] In so far as the auditors are concerned, the first information report itself shows that the auditors, namely Vaman Pandu Gadhe in Application No. 2701 and Sunil Raghunath Mali in Application No. 2702 have observed that the Society shall take the necessary steps in respect of the shortcomings noticed by them while conducting audit. Further, the first information report is completely silent that any irregularity was committed at the behest of the present applicants i.e. the auditors or that they have acted in connivance with any of the Managing Committee member or the Manager of the Society. Further, at the most, if the nature of accusations against them is taken at its face value, mere irregularity cannot be termed as having any shed of criminality on their part. In that view of the matter, in so far as irregularities committed by these auditors are concerned, departmentally they can be taken care of, however, for that, their custodial presence is not essential. That leads me to pass the following order.

ORDER

(i) Criminal Application nos. 2664, 2665 and 2700 are allowed.

(ii) Applicant No.1-Manohar and applicant no.2-Bhagwat in Application No. 2664 of 2015; Applicant No.1-Lilamchand, applicant no.2-Santoshkumar, applicant no.3-Anand and applicant no.4-Rakesh in Application No. 2665 of 2015; and applicant No.1-Amrut, applicant no.2-Vijay, applicant no.3-Prakash, applicant no.4-Dilip, applicant no.5-Nana, applicant no.6-Mrs. Shobha and applicant no.7-Kailash in Application No. 2700 of 2015, in the event of their arrest, in connection with Crime No. 63 of 2015, registered

at Jamner police station, District Jalgaon, for the offences punishable under Sections 420, 406, 409, 120-B of the Indian Penal Code; under Sections 73(1/A and B), 146, 147 of the Maharashtra Cooperative Societies Act; and under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Institutions) Act, be released on anticipatory bail on they each executing P.R. bond of Rs.15,000/- with two solvent sureties in the like amount by each of them.

(iii) Applicants in Application Nos. 2664, 2665 and 2700, except applicant no.1-Manohar Dinkar Patil in Criminal Application No. 2664 of 2015 due to his blindness and applicant no.1-Amrut Chindu Patil in Application No. 2700 of 2015 in view of his advance age of 87 years, shall attend police station Jamner on every Tuesday in between 10.00 a.m. to 3.00 p.m. till the charge sheet is filed.

(iv) Criminal Application nos. 2701 and 2702 are allowed.

(v) Applicant-Vaman Pandu Gadhe in Application No. 2701 of 2015 and applicant-Sunil Raghunath Mali in Application No. 2702 of 2015, in the event of their arrest, in connection with Crime No. 63 of 2015, registered at Jamner police station, District Jalgaon, for the offences punishable under Sections 420, 406, 409, 120-B of the Indian Penal Code; under Sections 73(1/A and B), 146, 147 of the Maharashtra Cooperative Societies Act; and under Section 3 of the Maharashtra Protection of Interest of Depositors

(in Financial Institutions) Act, be released on anticipatory bail on they each executing P.R. bond of Rs.15,000/- with two solvent sureties in the like amount by each of them.

(vi) Applicants in Application Nos. 2701 and 2702 of 2015 shall attend police station Jamner once in a week, preferably on every Sunday in between 3.00 p.m. to 5.00 p.m. till the charge sheet is filed.

(vii) Criminal Applications are disposed of.

(V.M.DESHPANDE, J.)

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