

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3668 OF 2015

Sopan s/o Bhikaji Jape ...Applicant

versus

The State of Maharashtra ...Respondent

WITH

CRIMINAL APPLICATION NO. 4147 OF 2015

Sandip Baban Zaware ...Applicant

versus

The State of Maharashtra ...Respondent

WITH

CRIMINAL APPLICATION NO. 4974 OF 2015

Shivaji Kisan Paymode ...Applicant

versus

The State of Maharashtra ...Respondent

.....

Mr. P. R. Katneshwarkar alongwith Mr. Sandip R. Andhale, Advocates for applicants

Mrs. M. A. Deshpande, A.P.P. for respondent

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CORAM : N.W. SAMBRE, J.

DATE : 11th SEPTEMBER, 2015

ORAL ORDER :

In Criminal Application No. 4974 of 2015, notice to the respondent. Learned A.P.P. waives service of notice for respondent.

As the issue involved in the present application is similar to other applications, for which learned A.P.P. is armed with the instructions, it will be appropriate to decide all these applications together.

2. These applications are by the employees of Vasant Dada Co. Op. Society, which was admittedly merged in Vardhman Co. Op. Society, for grant of pre-arrest bail in Crime No. I-193/2014 registered with Police Station, Parner, Dist. Ahmednagar for the offence punishable under Sections 120(B), 406, 408, 420, 467, 468, 470, 471 read with Section 34 of the Indian Penal Code and under Sections 146(A), (B), (C), (E-2), (J), (K), (N), (O), and (Q) of Maharashtra Co-Op. Society Act, 1960.

3. Heard Mr. Katneshwarkar, learned Counsel for applicants and learned A.P.P. for State. Mr. Katneshwarkar has invited my attention to the orders passed by this court in Criminal Application Nos. 1438/2015 and 1431/2015 preferred by the Directors of erstwhile Vasant Dada Co.Op. Society against whom, according to him, the allegations are similar to that of one made in the present applications against the present applicants. He would urge that, since the Managing Director and the Directors are already ordered to be released on bail, the present applicants are entitled for parity, as same set of facts and the evidence is considered for

registration of the offence against the present applicants.

4. According to him, the perusal of the complaint reflects that the alleged offence is committed under Section 146 relevant Sub-section of the Co.Op. Societies Act and in view of the provisions under Section 148, in absence of previous sanction from the Registrar, the prosecution cannot be initiated. He would further urged that, the said provisions are mandatory and has relied upon the judgment of this Court delivered by Nagpur Bench in Criminal Application No. 1799 of 2010 decided on 22/06/2015, wherein, in absence of previous sanction from Registrar, the prosecution under the said provisions were set aside.

5. While opposing the claim of grant of pre-arrest bail, learned A.P.P. has invited my attention to the fact that the above referred bail applications in which this Court has granted protection 27/04/2015, the same was dealing with the claim of the applicants, who were Directors or Managing Directors of erstwhile of Vasant Dada Co.Op. Society. In addition to above, she would urge that, the perusal of Audit Report and complaint speaks of specific attribution to the applicants and there is a role attributed to each of the applicants. The initiation of sanction without previous sanction from the Registrar will be gone into at the stage of trial and according her, custodial

interrogation is necessary for seizing the relevant record and as such, prayed for rejection of the bail.

6. With the assistance of the learned Counsel for the parties, I have perused the case papers and relevant orders passed by this Court on 27/04/2015 and also the Division Bench order dated 22/06/2015.

7. It is required to be noted that, while granting bail to the Directors, this Court has taken note of the fact that the Special Auditor by communication dated 17/02/2015 has informed the Investigating Officer that it will not be possible for the time being to give any opinion in respect of authenticity of Auditors Report, which found to be basis for lodging of complaint against the Directors and the applicants herein. Apart from above, it is also required to be noted that, it is not in dispute that there is no previous sanction as contemplated from the Registrar provided under Section 148 of the Co.Op. Societies Act, 1960.

8. The fact that, the entire record is already handed over to Vardhman Co.Op. Society and subsequent thereto to investigating Officer, is also not in dispute.

9. So far as the liability of the applicants, as regards their liability to repay the loan is concerned, the statement is made at bar that the applicants are duty bound to repay the said amount and are in agree for doing so.

10. In view of above, in my opinion, no fruitful purpose will be served in case the applications of the applicants for grant of pre-arrest bail are rejected. The custodial interrogation of the applicants is no more required as is apparent from the perusal of the reasons recorded in the order dated 27/04/2015 passed by this Court. As such, I am extending protection to the applicants on the following terms:-

(a) In the event of arrest, the applicants be released on bail upon furnishing P.R. Bond of Rs. 15,000/- (Rs. Fifteen Thousand) with one surety in the like amount by each of the applicant in Crime No. I-193/2014 registered with Police Station, Parner, Dist. Ahmednagar for the offence punishable under Sections 120(B), 406, 408, 420, 467, 468, 470, 471 read with Section 34 of the Indian Penal Code and under Sections 146(A), (B), (C), (E-2), (J), (K), (N), (O), and (Q) of Maharashtra Co-Op. Society Act, 1960.

(b) The applicants shall keep themselves away from the jurisdiction of concerned police station, save and accept for attending the concerned police station, till filing of the chargesheet.

(c) The applicants shall attend the concerned police station initially everyday for four days between 10.00 a.m. to 11.00 a.m. from 21st September, 2015 and thereafter as and when called.

(d) The applicants shall not tamper with the prosecution evidence.

11. Criminal Applications are allowed in above terms.

[N.W. SAMBRE, J.]