

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO.717 OF 2015**

Chayya Manaji Yadav

..Applicant.

versus

State of Maharashtra

..Respondent.

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Mr. Niranjan Mundargi i/b Mr. Apoorv Singh and Mr. Datta Mane for the Applicant.

Mrs. A.A. Mane, Addl. P.P. for the State.

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CORAM : A.S. GADKARI, J.
(VACATION COURT)

19th May 2015.**P.C. :**

Heard the learned counsel for the Applicant and the learned APP for the State. Despite intimation from the office of Public Prosecutor, the concerned Investigating Officer chose to remain absent. Hence, this Court proceeds with the matter on the basis of the documents annexed to the present Petition.

2. With the help of the learned counsel for the Applicant and the learned APP, perused the entire record made available before this Court. The Applicant is apprehending arrest in C.R. No.211 of 2013 registered at Borivli Police Station under Sections 465, 467, 468, 471, 420, 406 read with 120(b) of the Indian Penal Code. In the present case, it is the case of the prosecution that the Chairman and other committee members of Dhan Chhaya Co-operative Credit Society

have defalcated certain amount, thereby bringing the said society into huge and tremendous financial losses. It is further the case of the prosecution that the said act of the Chairman and other committee members amounts to siphoning off the funds of the said co-operative credit society, thereby attracting the various provisions of the Indian Penal Code.

3. It is pertinent to note here that the original accused No.1 - Manaji Yadav was released on anticipatory bail by an order dated 7th June, 2013 by the Additional Sessions Judge, City Civil and Sessions Court, Borivli Division, Dindoshi, Mumbai during the pendency of the investigation. It is an admitted fact that as of today, the investigation is completed and charge-sheet has been filed. It is further to be noted that though the First Information Report mentions 37 names of the alleged accused persons, the said First Information Report was silent about the name of the Applicant. It is the case of the prosecution that after the submission of the charge-sheet i.e. the final report before the Court of competent jurisdiction, accused No.37 - Vijay Nirmal alleged to have disclosed the name of the Applicant as one of the co-accused.

4. It is difficult to believe the fact that during the course of investigation of the present crime of such a magnitude wherein initially 37 names have been surfaced in the First Information Report, the Investigating Agency was unable to get any evidence against the

Applicant and it is only after the submission of the charge-sheet, one of the co-accused disclosed the name of the Applicant as a co-accused. According to me, this speaks volumes about the investigation which was carried out by the investigating agency.

5. In my considered opinion, the case of the Applicant stands on much better footing than the case of Manaji Yadav – original accused No.1 who has been released on anticipatory bail by the Additional Sessions Judge, City Civil and Sessions Court, Borivli Division, Dindoshi Mumbai by its order dated 7th June, 2013. The learned Trial Court while rejecting the application of the present Applicant has erroneously held that the principle of parity is not applicable to the present Applicant. In that view of the matter, the Applicant deserves to be released on anticipatory bail on the following terms and conditions :

- i) In the event of arrest, the Applicant shall be released on bail on her executing a personal bond in the sum of Rs.25,000/- with one solvent surety in the like amount;
- ii) The Applicant shall attend Borivli Police Station as and when called for by the investigating agency between 11.00 a.m. to 5.00 p.m. It is made clear that the Applicant being lady, the Investigating Officer shall call the Applicant during day time as specified herein above i.e. between 11.00 a.m. to 5.00 p.m. and shall not detain the Applicant beyond 5.00 p.m.;
- iii) The Applicant shall submit her proof of residence and shall

deposit her passport, if she is having so, with the investigating agency. The Applicant shall not leave the jurisdiction of this Court without prior permission of the Trial Court;

iv) It is needless to mention that the Applicant shall not indulge into tampering of the evidence during the pendency of the further investigation of the present crime.

The Application is allowed in the aforesaid terms.

(A.S. Gadkari, J.)