

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 752 OF 2014

1	Rajendra Rangrao Bhosale.	
2	Sadashiv Dudhappa Palekar	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 753 OF 2014

1	Rajendra Jayvant Arjune.	
2	Amar Janardan Kamble.	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. Kuldeep U. Nikam, advocate for applicants.

Mrs. A.A. Mane, APP for State.

Mr. R.K. Waikar, PSI, Sangli City Police Station.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : DECEMBER 21, 2015

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 These are the the applications under Section 438 of the Code of Criminal Procedure, 1973. The applicants are apprehending their arrest in C.R. No. 37 of 2014 registered at Sangli City Police Station for offence punishable under Section 420, 408, 409, 465, 468, 471, 474 read with Section 34 of the Indian Penal Code.

3 The prosecution case is that the applicants are directors of Bhagyalaxmi Nagari Sahakari Patasanstha, Sangli. On 12/3/2014 Ranjit Rangrao Patil, Deputy Auditor of the Cooperative Society filed a report at the police station alleging therein that at the time of conducting audit of the credit society, it was revealed that the office bearers of the said society had misappropriated huge amount. Loans were not sanctioned in accordance with law. That there were unsecured loans extended to the family members of the directors. Office bearers had not conducted affairs of the credit society in accordance with the statutory provisions of the Maharashtra

Cooperative Society's Act, 1960 and as per the by-laws of the Society and has caused heavy losses to the investors and the society.

4 Upon perusal of the FIR, it is clear that the main role in all these activities is attributed to the Chairman, Vice-Chairman, cashier and the manager of the said society. The application seeking pre-arrest bail filed by the Chairman, Vice-Chairman and cashier was rejected. They were taken into custody and have been enlarged on bail under Section 439 of the Code of Criminal Procedure, 1973.

5 The learned Counsel for the applicants submits that the present applicants are being prosecuted only by virtue of their being directors of the said society. The applicant No. 1 in Criminal ABA No. 752 of 2014 also appears to be director of the said Society whose brother and sister-in-law had availed of huge loan, approximately Rs. 35 Lakhs. It appears that the said loans were unsecured loans.

6 The learned APP rightly submitted that by virtue of being director of the said society, the applicants in all probabilities influenced the loan committee as well as chairman to sanction the said loan and the amount is not repaid. It would be within the powers of the Registrar of the Cooperative Society to initiate an enquiry against the chairman and directors of the society under Section 83 of the Cooperative Societies Act, 1960 and impose penalty upon them after ascertaining their individual liability and recover the same as contemplated under Section 88 of the Maharashtra Cooperative Societies Act, 1960.

7 Section 88 of Maharashtra Cooperative Societies Act, 1960 contemplates as follows :

(1) Where, in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 83 or the person authorised to inspect the books under section 84 or the Liquidator under section 105 or other wise that any person who

has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to1[the date of commencement of such audit or date of order for inquiry, inspection or] winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may frame charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charge, **make an order** requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.”

In view of this, the Registrar shall conduct enquiry and take action under Section 83 and Section 88 of the Maharashtra Cooperative

Societies Act, 1960. Custodial interrogation of the applicants would not be necessary.

8 In view of the above observations, the applicant No. 2 in Criminal ABA No. 752 of 2014 and the applicant in Criminal ABA No. 753 of 2014 deserves to be granted pre-arrest bail. However, the applicant No. 1 in Criminal ABA No. 752 of 2014 deserves to be granted pre-arrest bail on deposit of Rs. One Lakh in the Court within 8 weeks from today.

9 Hence, following order is passed:

ORDER

- (i) Both the applications are allowed.
- (ii) In the event of arrest, the applicant No. 2 in Criminal ABA No. 752 of 2014 and the applicants in Criminal ABA No. 753 of 2014 be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or two solvent sureties in the like amount.

(iii) In the event of arrest, the applicant No. 1 in Criminal ABA No. 752 of 2014 be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or two solvent sureties in the like amount.

(iv) The applicant No. 1 is Criminal ABA No. 752 of 2014 shall deposit sum of Rs. One Lakh in the court within 8 weeks from today.

(v) The applicants shall report to the Sangli City Police Station once in a fortnight i.e. every alternative Sunday till the filing of the charge-sheet.

(vi) Non-compliance of this order shall entitle the prosecution to file an application seeking cancellation of bail.

10 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)