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

CRIMINAL APPLICATION NO. 3112 OF 2016

Pramod s/o Nilkanthrao Chavan,
Age: 57 years, Occu: Service as
General Manager (now under suspension),
R/o Plot No. 66, Survey No. 330,
Dnyaneshwar Nagar, Pathardi Phata,
Nasik ..APPLICANT
(Orig. accused No. 5)

VERSUS

1. The State of Maharashtra,
Through the Police Station Officer,
Kotwali Police Station,
Ahmednagar

2. The Superintendent of Police,
Ahmednagar ..RESPONDENTS

Mr S. S. Choudhari, Advocate for applicant;
Mr S. D. Ghayal, Addl. Public Prosecutor for respondents;
Mr S.B. Talekar, Advocate to assist Addl. Public Prosecutor

WITH
CRIMINAL APPLICATION NO. 3165 OF 2016

Ganesh s/o Babasaheb Sanap,
Age: 37 years, Occu: Agri.,
R/o Ganesh Niwas, Nagar Road,
Beed, Tal. & Dist. Beed ..APPLICANT

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station, Kotwali,
Ahmednagar, Dist. Ahmednagar ..RESPONDENT

Mr S. S. Thombre, Advocate for applicant;
Mr S. D. Ghayal, Addl. Public Prosecutor for respondent;
Mr S.B. Talekar, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 21st June, 2016

ORAL ORDER :

Heard Mr S.S. Choudhari, learned Counsel appearing on behalf of applicant in Criminal Application No.3112 of 2016 and Mr S.S. Thombre, learned Counsel appearing on behalf of applicant in Criminal Application No.3165 of 2016.

2. By these applications under section 438 of the Code of Criminal Procedure, the applicants are seeking pre-arrest, in connection with C.R. No.137 of 2016, registered with Kotwali police station, Ahmednagar, for offences punishable under sections 420, 467, 468 read with section 34 of the Indian Penal Code.

3. The case of the prosecution against the present applicants is as under :-

The complainant is the District Manager of Vasantrao Naik Vimukta Jatis and Nomadic Tribes Development Corporation Limited, Mumbai. Upon instructions from his head office, it is claimed in the first information report, that the statutory corporation of which the complainant is District Manager, is receiving funds from the Central Government for being provided in the form of loan to the people belonging to Vimukta Jatis and Nomadic Tribes category, provided they qualify the conditions for such aid in the form of loan.

4. It is claimed that one A.V. Nagare was District Manager during the year 2012-13 at Ahmednagar District Office of the Corporation and for a period from 15th September, 2012 to 10th January, 2013, 50 beneficiaries were short-listed and the loan was sanctioned by the Corporation from its head office to the tune of Rs.2.50 crores. It is then claimed that the amount of Rs.2.5 crores was disbursed through account payee cheque and was deposited in the personal account of accused Yogesh Sanap, bearing savings bank account No.067/20625. Though the cheques were drawn in the names of the beneficiaries, still the same were encashed in the above referred account of Yogesh Sanap, which was confirmed through the communication dated 30th December, 2014, issued by the Commissioner for Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune. It is then noted that an inquiry was ordered in the above referred matter by the Managing Director of the corporation though Legal Advisor, who was former judicial officer and it is noticed in the report submitted by him that 50 beneficiaries, in whose names the amounts were disbursed, are bogus and not residing in Ahmednagar district.

5. During inquiry, it was noted that all 50 beneficiaries in whose names the loan was disbursed, were found to be not complying with required conditions, such as their caste certificate, ration card, etc. and the loan documents were forged.

6. So far as the applicants are concerned, applicant Pramod Chavan was General Manager of the corporation and during inquiry, it is noticed that he has played vital role in the matter of disbursement of loan by exerting pressure on the officials from the Ahmednagar branch to process, sanction and disburse the loan in favour of so called beneficiaries.

7. Mr Choudhari, learned Counsel appearing on behalf of the applicant in Criminal application No.3112 of 2016 would submit that the applicant is falsely implicated in the crime in question. According to him, vide order dated 5th February,2 013, the applicant was given additional charge of the post of Managing Director of the corporation. According to him, prior thereto, he was working as General Manager at Bombay office and he has hardly anything to do with the office at Ahmednagar, as there is no direct or indirect involvement of the applicant in daily routine administration /disbursement of loan amount/finalization of the beneficiaries. Mr Choudhari would rely upon the Govt. Resolution dated 14th May, 2012, so as to submit that there is a specific committee headed by the Resident Deputy Collector, who after following due process, selects beneficiaries and the amount is disbursed by the head office to the local office for the purpose of disbursement. According to him, the entire process is transparent and the applicant is no way concerned with the crime in question.

8. Mr Choudhari would then submit that the applicant has already retired from the service of the corporation and there are no criminal antecedents against the present applicant and before his posting at head office, he was working at Nashik. Learned Counsel submits that even Nashik office does not have direct or indirect control over the office at Ahmednagar and as such, the applicant is falsely implicated in the crime.

9. Mr Thombre, learned Counsel appearing on behalf of the applicant in Criminal Application No.3165 of 2016 would submit that applicant Ganesh is the real brother of Yogesh, who is working as Deputy Manager in the Beed District Central Co-operative Bank, where the amount transferred from the office of the corporation from Ahmednagar was encashed and disbursed. According to him, even if it is assumed that the amount of Rs.2.5 crores has been deposited in the account of Yogesh, the brother of the applicant, the applicant is no way concerned with the same. He would invite attention of this Court to the contents of the first information report, to submit that there is hardly any material to connect the accused with the crime in question. According to him, the applicant is entitled to be released on bail.

10. Learned Addl. Public Prosecutor, while opposing the applications, has taken me through the investigation papers. He would submit that the investigation carried out till date depicts that the offence involves financial implications and the entire budget of the corporation has collapsed because of similar type of offences as are noticed. Learned Counsel Mr

Talekar, assisting the learned Addl. Public Prosecutor, has informed that the total scam in the corporation is to the tune of Rs.70 crores, as the amount of loan meant for genuine candidates from the backward category was not passed on to them, but has been swallowed by the persons like the present applicants-accused. He would then submit that applicant Pramod Chavan, who was initially General Manager and in-charge Managing Director, was in know how of entire procedure and the inquiry conducted by the Legal Advisor of the corporation depicts *prima facie* involvement of both the applicants. Learned Addl. Public Prosecutor would submit that the Apex Court has time and again, observed that in the matters involving financial implications, this Court should be slow in granting pre-arrest bail. According to him, custodial interrogation of the applicants is very much necessary. As such, he prays for rejection of the applications.

11. Having bestowed my thoughts to the submissions made, at the outset, it is required to be noted that the lodging of the first information report is based on the inquiry report submitted by the Legal Advisor of the Corporation, pursuant to the directions given by the corporation. The Enquiry Officer, who is former Judicial Officer, has noted that applicant Pramod Chavan has used his position of General Manager at Bombay and thereafter of the Managing Director, for the purpose of influencing the local officers of the corporation at Ahmednagar, to sanction and disburse the amount. The fraud is apparent, as it is noted that the amount of Rs.2.5 crores, i.e. Rs.5,00,000/- against each of the beneficiaries was transferred

to a single account of Yogesh Sanap, who is working as Deputy Manager, Beed District Central Co-operative Bank and thereafter the amount was disbursed/distributed by the accused persons. Applicant Ganesh, though claims to be an agriculturist, still it is not in dispute that he is real brother of Yogesh Sanap, in whose bank account the amount was transferred. Applicant Ganesh was instrumental in collecting, transporting/aiding the process of proposals for loan.

12. The fact that the amount was disbursed to the bogus beneficiaries cannot be lost sight of by the General Manager/Managing Director Pramod Chavan, as in the inquiry it is noted that no efforts were made by him for recovery of the said amount, but he had sat tight over the said matter. It is then required to be noted that similar type of frauds are played at Sangli and Thane, where first information reports are already lodged, whereas filing of first information reports at Beed, Alibag and Pune is under consideration, for similar type of offences. It is brought to my notice that the corporation approximately has suffered loss of Rs.70 crores till date and the figure might be more, upon detailed inquiry/investigation. The fact remains that sanction of loan, selection of beneficiaries and transfer of the amount cannot take place without the aid and consent of the officials of the corporation. The Investigating Officer has started investigation in the matter and upon physical verification, has noted that the beneficiaries who are shown to be applicants for the purpose of disbursement of loan, are not at all in existence, as is apparent from the certificates to that effect issued by the Tahsildar and other authorities. Amongst other, applicant Pramod Chavan was duty bound to supervise the entire working of the

corporation, rather it could be inferred from the record, particularly the inquiry report, that he acted in connivance with Ravindra Kamble and Pralhad Gajbhiye, who were aware about the entire procedure of short-listing of beneficiaries, selection of beneficiaries, compliance of procedure for selection of beneficiaries – disbursement lacunae in the entire process. The applicants-accused, who are higher officers in the corporation, have used their offices for the purpose of exerting pressure on the subordinate officers, as is apparent from from the inquiry report, to commit aid or fraud in question.

13. The officials of the corporation, in an unequivocal terms, have stated as to the manner and mode in which the present applicants have utilized their offices for the purpose of pressurizing the regional offices, to disburse the amount to unqualified persons. The report of the Legal Advisor Officer of the corporation speak volumes about the conduct of the applicants and their involvement in the crime in question.

14. In an economic offence, the Supreme Court has time and again observed that the Courts should be slow in granting protection, particularly pre-arrest bail in favour of the accused persons, as economic offences adversely affect economy of the country and corporation in this case.

15. In the above referred background, in my opinion, no case for grant of pre-arrest bail is made out. Criminal Applications, therefore, stand rejected.

(N.W. SAMBRE, J.)

amj