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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.208 OF 2016
WITH
CRIMINAL APPLICATION NO.271 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.208 OF 2016.

Girija Padmakar Patil and ors	 Applicants
V/s.	
The State of Maharashtra	 Respondent
and	
Chintamani Keshav Patil	.. Intervener.

Mr. V. V. Purwant, for the Applicant.
Mr. Dinesh P. Adsule, APP alongwith Mr.Arfan Sait, APP, for the Respondent State.
Mr. Shriram Kulkarni, I/by Mandar S. Kulkarni, for the intervener.

CORAM : A. M. BADAR, J.

DATE : 5th JULY, 2016.

P.C. :

1. The applicants/accused, in Crime No.34 of 2011, registered with Pen Police Station, for the offence punishable under Sections 409, 418, 420, 465, 467, 468, 471, 477, 409, 163, 120(B) r/w 34 of the Indian Penal Code, Section 147 of the Maharashtra Protection of Interest of

Depositors Act and sections 65, 66 of the Information Technology Act, by this application are praying for pre-arrest bail.

2. Heard the learned counsel for applicants. He argued that the applicants are having no nexus with Pen Urban Bank or any alleged misappropriation of funds of Rs.598.72 crores in the said bank. According to the learned counsel for applicants, they received 20% of the amount under Memorandum of Understanding executed by them in favour of Moti Builders. Amount is received by them through Moti Builders in the year 2008.

3. As against it, the learned APP argued that there is huge misappropriation in Pen Urban Bank. Applicants are mere tenants of the agricultural lands and they have no legal right to enter into such agreements.

4. I have also heard the learned counsel for the intervener/depositor. He argued that crores of rupees are required to be recovered from present applicants and for that purpose their custodial interrogation is required. He also reiterated the argument advanced by learned APP.

5. Perused the reply filed by the Investigating Officer. It is seen that in Pen Urban Co-operative Bank Ltd, by opening bogus accounts and by transferring huge funds in those accounts and withdrawing funds from

such bogus accounts, huge amount came to be misappropriated. It is seen that amount misappropriated was used for purchase of lands by several people. Funds so obtained by misappropriation were used for making agreement for purchase of agricultural lands.

6. According to reply filed by Investigating Officer, an amount of Rs.3,82,50,000/- came to be pocketed by present applicants by executing Memorandum of Understanding. It is seen that present applicants are tenants (Kul) of agricultural lands. They appear to be protected tenants under the Bombay Tenancy and Agricultural Lands Act, 1948. It is seen that they entered into Memorandum of Understanding with Moti Builders belonging to Mr. Motilal Chajed, who is co-accused in the crime in question. Present applicants are recipients to 20% amount under those Memorandum of Understanding, in the year 2008.

7. Applicants are not having direct nexus with the affairs of Pen Urban Co-operative Bank. They are merely agriculturists, who entered into agreements with Moti Builders and received some consideration in pursuant to those agreements. The reply filed by Investigating Officer goes to show that such agriculturists who deposited the amount under agreements, are made as witnesses. This treatment is given to only those who refunded the amount. The Investigating Officer did not found their custodial interrogation necessary. In the case in hand, according to

applicants, amounts received by them in the year 2008 is not available with them for refund.

8. Be that as it may, the role ascribed to present applicants is that of executing Memorandum of Understanding with Moti Builders and receiving 20% amounts of agreed amount. Their custodial interrogation is, therefore, not warranted and as such the following order.

Order

- I) The application is allowed.
- II) In the event of arrest of applicants, in above crime, they be released on bail on their executing P.R. Bonds in the sum of Rs.25,000/- by each of them and on their furnishing sureties in the like amount., by each of them.
- III) Applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) Applicants shall attend the concerned police station on 11.07.2016 and 17.07.2016 in between 11.00 a.m. to 1.00 p.m., and shall co-operate the Investigating officer.
- V) The applicants shall not tamper with the prosecution evidence in any manner.
- VI) If any applicant submits his/her medical certificate

showing that he/she is immobile due to illness, the Investigating Officer, can interrogate such applicant by visiting his/her place of residence.

VII) Applicants shall not commit similar type of offence in future.

9. In view of disposal of main application itself, pending applications, if any are disposed of accordingly.

[A. M. BADAR, J.]