

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**ANTICIPATORY BAIL APPLICATION NO. 652 OF 2016**

|                           |     |            |
|---------------------------|-----|------------|
| Mr. Hanmant Bhagwan Pawar | ... | Applicant  |
| vs.                       |     |            |
| The State of Maharashtra  | ..  | Respondent |

WITH  
**ANTICIPATORY BAIL APPLICATION NO. 472 OF 2016**

|                                   |    |            |
|-----------------------------------|----|------------|
| 1. Shri Hanumant Jalinder Jadhav  |    |            |
| 2. Shri Gundaji Dagdu Chitalikare |    |            |
| 3. Shri Rajendra Bapurao Pawar    |    |            |
| 4. Mrs. Archana Mahadeo pawar ... |    | Applicants |
| vs.                               |    |            |
| The State of Maharashtra          | .. | Respondent |

WITH  
**ANTICIPATORY BAIL APPLICATION NO. 498 OF 2016**

|                                  |    |            |
|----------------------------------|----|------------|
| 1. Shri Bapusaheb Bhimrao Pawar  |    |            |
| 2. Mr. Kakasaheb Vishnu Madane   |    |            |
| 3. Shri Bhagwan Tukaram Barkade  |    |            |
| 4. Mr. Mahadev Madhukar Pawar    |    |            |
| 5. Mr. Vitthal Sakharam Mohite   |    |            |
| 6. Mr. Maruti Natha Nikam        |    |            |
| 7. Mr. Prashant Sanjay Kadam ... |    | Applicants |
| vs.                              |    |            |
| The State of Maharashtra         | .. | Respondent |

WITH  
**ANTICIPATORY BAIL APPLICATION NO. 500 OF 2016**

|                               |     |            |
|-------------------------------|-----|------------|
| Mr. Rajendra Ganpatrao Mohite | ... | Applicant  |
| vs.                           |     |            |
| The State of Maharashtra      | ..  | Respondent |

WITH  
**ANTICIPATORY BAIL APPLICATION NO. 504 OF 2016**

|                               |     |            |
|-------------------------------|-----|------------|
| 1. Dilip Deoba Kambale        |     |            |
| 2. Dnyaneshwar Maruti Chorage | ... | Applicants |
| vs.                           |     |            |
| The State of Maharashtra      | ..  | Respondent |

WITH  
**ANTICIPATORY BAIL APPLICATION NO. 505 OF 2016**

|                              |     |            |
|------------------------------|-----|------------|
| 1. Sima Chandrakant Chavan   |     |            |
| 2. Nitin Balkrishna Deshmane |     |            |
| 3. Vijaykumar Maruti Barge   |     |            |
| 4. Mehbub Akbar Kazi         | ... | Applicants |
| vs.                          |     |            |
| The State of Maharashtra     | ..  | Respondent |

WITH  
**ANTICIPATORY BAIL APPLICATION NO. 512 OF 2016**

|                                    |  |            |
|------------------------------------|--|------------|
| Shri Jagannath Dattatray Dyansagar |  | Applicant  |
| vs.                                |  |            |
| The State of Maharashtra           |  | Respondent |

with  
**ANTICIPATORY BAIL APPLICATION NO. 555 OF 2016**

|                              |     |            |
|------------------------------|-----|------------|
| Sau Anandibai Ajitsinh Pawar | ... | Applicant  |
| vs.                          |     |            |
| The State of Maharashtra     | ..  | Respondent |

WITH  
**ANTICIPATORY BAIL APPLICATION NO. 601 OF 2016**

|                              |     |            |
|------------------------------|-----|------------|
| Mr. Vishwas Shankar Kulkarni | ... | Applicant  |
| vs.                          |     |            |
| The State of Maharashtra     | ..  | Respondent |

Mr. Prabhakar Gujar Advocate for the applicant in ABA No.652 of 2016 & ABA No.601 of 2016.

Mr. Milind Deshmukh Advocate for the applicant in ABA No.472 of 2016 & ABA No.498 of 2016.

Mr. Amey Anil Darige Advocate for the applicant in ABA No.500 of 2016.

Mr. Niranjana Mundargi for applicant in ABA/504/2016

Mr. Niranjana Mundargi i/b. Mr. Prasanna A. Bhangale for applicant in ABA/505/2016.

Mr. Ajit J. Kenjale for applicant in ABA/512/2016.

Mr. Umesh Mankapure for applicant in ABA No.555/2016.

Mr. Prasanna Bhangale Advocate for the applicant in ABA No.512 of 2016.

Mr. Umesh Mankapure Advocate for the applicant in ABA No.555 of 2016.

Ms. Veera Shinde, APP for the State

**CORAM: SMT.SADHANA S.JADHAV,J.**

**DATE : 14<sup>th</sup> October , 2016.**

**P.C.**

These are the applications under Section 438 of the Code of Criminal Procedure. The applicants herein are apprehending their arrest in Crime No.194 of 2015 registered at Vaduj Police Station, Dist. Satara for the offences punishable under Sections 406, 408, 409, 217 read with Section 34 of the Indian Penal Code.

2. The applicants herein are the Chairman, Directors and employees of Vighnaharta Rural Non-Agricultural Co-operative Credit Society Limited at Village Chitali, Taluka Khatav, District Satara (herein-after referred to as “the said Society”). They are indicated as follows :-

| <u>Sr.No.</u> | <u>Name</u>                     | <u>Designation</u> |
|---------------|---------------------------------|--------------------|
| 1.            | Sou. Anandi Ajitsinh Pawar      | Chairman.          |
| 2.            | Adv. Hanmantrao Jalinder Jadhav | Director           |
| 3.            | Kakaso Vishnu Madne             | Director           |
| 4.            | Bhagwan Tukaram Barkade         | Director           |
| 5.            | Rajendra Ganpatrao Mohite       | Director           |
| 6.            | Mahadeo Madhukar Pawar `        | Director           |
| 7.            | Vitthal Sakharam Mohite         | Director (Expert)  |
| 8.            | Maruti Nath Nikam (Gund)        | Director )Expert)  |
| 9.            | Hanmant Bhagwan Pawar           | Cashier            |
| 10.           | Prashant Sanjay Kadam           | Clerk              |
| 11.           | Shri M.A. Kazi                  |                    |
| 12.           | Seema Chandrakant Chavan        |                    |
| 13.           | Shri D.D. Kamble                |                    |
| 14.           | Shri V.M.Barg.                  |                    |
| 15.           | Shri D.M.Chorge                 |                    |
| 16.           | Shri Nitin Balkrishna Deshmane  |                    |

2. It is the case of the prosecution that in the year 2012, the Chairman of the said Society noticed that the funds of the said Society have been misappropriated. Upon detailed enquiry, he learnt that the misappropriation was done by the Secretary of the said Society i.e. Shri Hindurao Pawar (since deceased). Initially, a notice was issued to Hindurao Pawar calling for his explanation. The Secretary of the said Society,

pursuant to th said notice, filed an affidavit on 18.4.2013, thereby admitting all the allegations made by the Managing body of the said Society. A first information report was lodged against Hindurao Pawar, on the basis of which Crime No.81 of 2013 was registered at Vaduj Police Station against Hindurao Pawar for the offences punishable under Sections 420, 406 and 380 of the Indian Penal Code. On 25.4.2013, the Secretary Hindurao Pawar committed suicide. The wife of deceased Pawar filed a report against 9 persons for abetting the commission of suicide. On the basis of the said report, Crime No.86 of 2013 was registered against the directors of the said Society and others for the offences punishable under Sections 306, 465, 323, 506 read with Section 34 of IPC.

3. The Managing Body of the said Society, in the fitness of circumstances, had thought it fit to audit the accounts of the said Society for the period 1.4.2010 to 31.3.2013. Accordingly, the audit was carried out. The Assistant Registrar of Co-operative Societies gave further directions to re-audit the accounts of the said Society for the period 1.11.2002 to 31.3.2013. Thereafter, a special audit was carried out. The audit report was submitted to the District Special Auditor on 31.1.2014. On 23.11.2015, the Auditor Mr. Rakhmaji Shendge lodged a report at the police

station against 30 persons i.e. the Directors, Past Auditors and the employees alleging therein that they all in connivance misappropriated an amount of Rs.98,91,834/- during the period 1.4.2002 to 31.3.2013. On the basis of is report, Crime No.194 of 2015 is registered at Vaduj Police Station against all the applicants for having committed offences punishable under Sections 406, 408, 409, 217 read with Section 34 of IPC.

4. It is pertinent to note that in fact, a notice was issued to Hindurao Pawar who had admitted all the allegations and had thereafter committed suicide. The audit period was shown from 2002 to 2013 and it was audit for 11 years. The members of the Body had changed. That it was the Managing Body who had, upon noticing misappropriation, initiated an inquiry as well as the audit. At this stage, it cannot be said that the applicants could be held responsible for the misappropriation for the whole period. It was incumbent upon the Registrar of Co-operative Societies to initiate enquiry against the Directors under the provisions of Maharashtra Co-operative Societies Act. A liability could be fixed upon them on the basis of the records. As on today, it is not a fit case for custodial interrogation.

5. The observations of the Audit speak for themselves. A finding is recorded in the Audit Report that the applicant – Hanmant Pawar was working as a Cashier during 2002 to 2005. In fact, he was working as a Clerk in the said Society. As far as the Directors are concerned, the Auditor has recorded a finding that they have been negligent in not supervising the functioning of the Society. The report clearly mentions that there has been negligence on the part of all the applicants when the amounts were being misappropriated by deceased Hindurao Pawar. For being negligent, they cannot be given custody as it would amount to punitive detention.

6. Taking into consideration the material against the applicants and the documentary evidence, this Court is of the opinion that they deserve pre-arrest bail. In view of this, the interim relief granted in favour of the applicants deserve to be confirmed.

7. The above observations are restricted to an application under Section 438 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

### **ORDER**

(i) The applications are allowed.

(ii) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.

(iii) The applicants shall report to the concerned police station as and when called upon after being issued a notice under Section 160 of Cr.P.C.

All the applications stand disposed of.

**(SMT.SADHANA S.JADHAV, J.)**