IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 785 OF 2016

Shri. Rameshwar P. Gadekar .....Applicant
V/s.
The State of Maharashtra
(At the instance of Dahisar
Police Station) ......Respondent

ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 1393 OF 2015

Shri. Kamlakar Rama Takawale .....Applicant
V/s.
The State of Maharashtra
(At the instance of Dahisar
Police Station) .....Respondent

ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 1890 OF 2015

Vaishali Vishal Mudale .....Applicant
V/s.
The State of Maharashtra .....Respondent

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Mr. S.P. Kadam a/w. Mr. Prashant Raut,
Advocate for the applicant in ABA-785-2016, ABA-1393-2015.
Mr. Nitin Pradhan a/w. Mrs. S.D. Khot and Ms. Ameeta

Kuttikrishnan, Advocate for applicant in ABA-1890-2015.

Mr. Pravin Chavan, Special Public Prosecutor a/w. Mrs. Rutuja Ambekar, APP for State, respondent.

CORAM :- N.W. SAMBRE, J.
DATED :- 23RD NOVEMBER, 2016.

P.C. :-

1). In all these three applications under Section 438 Criminal Procedure Code, the applicants are seeking pre-arrest bail in Crime No. 336 of 2015 for offences punishable under Sections 406, 408, 409, 420, 465, 467, 468, 471, 384, 120(B) read with Section 34 Indian Penal Code and Section 7, 13(1)(C) of the Prevention of Corruption Act for an alleged offence which took place between August 13, 2012 to 12th September, 2014.

2). The case of the prosecution against the present applicant is, Lokshahir Annabhau Sathe Vikas Magasvargiya Corporation, a Statutory Corporation of the State Government was formed with an object of extending financial benefits in the form of loan, aid etc and to undertake such activities as shall be necessary for the upliftment of Matang Community, a most backward class category in the State of Maharashtra. The State and Central Government provide financial aid through the Corporation.

3). It is then claimed that, one Ramesh Kadam, an MLA was manning the post of Chairman and the business of the Corporation was conducted through the Board of Directors.

4). It is to be noted that said, Kadam Chairman has mismanaged the amount of the Corporation to the tune of crores of rupees with the help of staff and the other persons resulting into registration of the crime in question.

5). In Criminal Application No. 1393 of 2015 applicant, Kamlakar claims to be one of the Director of Lokshahir Annabhau Sathe Vikas Magasvargiya Suthgirni, Paithan, Dist. Aurangabad (in short “the Corporation”). It is claimed that, the Corporation in question, receives financial aid from the State, as well as, the Central Government for the betterment of the downtrodden members of the Matang Community. It is also claimed that, the applicant is a shareholder of one, Metri Sugar and Trading Pvt. Ltd (for short “Metri Sugar”) and holds 3,320 equity shares of the Company and also Director in Metri Realities. It is claimed that, the amount from the Corporation was diverted to the accounts of Metri Sugar and also to the account of Soot Girni which was later on diverted for purchase of the property at Nashik, MIDC area which has resulted into registration of the crime in question.

6). So far as Bail Application No. 785 of 2016 by

Rameshwar Gadekar is concerned, in the cause title he claims to be a Driver and also one of the shareholder of Metri Sugar holding 3,320 equity shares of the said Company. He is also one of the Director of Metri Sugars and Metri Realities.

7). Similar type of allegations as that of in earlier Bail Application i.e. in the case of Kamlakar are made against the present applicant.

8). The third application being Bail Application No. 1890 of 2025 is moved by Vaishali Mudale who claims to be an employee of the Corporation. It is claimed in her application that, she being an employee in the Corporation was entrusted with the duty of preparing the agenda of the meeting of the Board of Directors of Corporation, noting down the minutes, maintaining the records. It is also not in dispute that, the said applicant is related to the Chairman of the Corporation, Kadam. According to her, she has purchased only one plot in Aurangabad District after obtaining loan from the Corporation in a legal manner. She would urge that, the applicant is falsely implicated as she is no way benefited out of the crime in question i.e. from the illegal withdrawal of funds of the Corporation.

9). According to all the applicants, they are protected by this Court since last about an year and in view thereof, their application for pre-arrest bail needs to be allowed.

10). While opposing the bail, the learned Special Public Prosecutor for the State-CID, would urge that, all these three applicants are actively involved in the commission of crime which has serious economic colour. The applicants having helped the main accused, Ramesh Kadam, Chairman of the Corporation in siphoning off the funds of the Corporation and further investing the same, either in their own name or in the name of firms in which the accused persons have financial interest. The learned Public Prosecutor, then would urge that, it is the public money which is siphoned off in crores and the applicants custodial interrogation is very much necessary, as there is *prima-facie* involvement of the applicants in the commission of crime in question.

11. The learned Special P.P., then would urge that, just because the investigating agency has filed the chargesheet against other co-accused, the same does not entitle the present applicants to be released as the investigation against the applicants is not complete in the absence of custodial interrogation. He would then submit that, the investigation carried out till date depicts *prima-facie* involvement as there is sufficient material to that effect available on record and prayed for rejection.

12. From the record, what could be gathered is that, the first chargesheet filed was on October 30, 2015 and supplementary on November 7, 2015. Though, it is claimed that in both the chargesheet there is no material available on record against the present applicants, however it could be noted from the investigation carried out till date against the applicant that substantial amount was diverted to the various accounts of co-accused in which the amount from the Corporation was parked. The applicant appears to be the beneficiary of amount in crores from the Account of the Corporation. Though loan was obtained by the applicant, Vaishali, however, in her Bank account there are various entries which takes this Court to infer that she is also direct beneficiary of the amount disbursed off from the corporation and diverted to her Bank account through the Bank account of other co-accused. There is one more reason to connect the present applicant to the crime in question and that is, she being the employee of the Corporation was entrusted to maintain the minutes of the Corporation. The original minutes of important subjects were noticed to have been misplaced, not traceable. The said act on the part of the applicant, *prima-facie* makes this Court to believe that the applicant has acted in aid of the main accused, Ramesh Kadam. Even if the applicant is a lady and she being available for the purpose of investigation, having regard to the fact that, she is a direct

beneficiary of the amount which was received by her, which was routed through the account of Pawandeep Kohli and his mother and Trimurti Daba owner, *prima-facie*, involvement of the applicant could be easily inferred. As such no case for bail in the said matter is made out.

13. So far as application of applicant, Rameshwar Gadekar and Kamlakar Takawale is concerned, though it is claimed that, they are falsely implicated in the crime in question, however, it could be noted from the investigation papers that the applicant, Rameshwar Gadekar himself in the application claims to be a Driver. He appears to have purchased 3,320 shares of Metri Sugars. The said Metri Sugars has received an amount of Rs.30 crores from the Corporation, which as per corporation object, it was not entitle. Apart from above, the amount from Metri Sugars was further diverted in the reality business. So far as the applicant, Gadekar is concerned it is claimed that for being added as a Director of Metri Sugars and for the purpose of purchase of shares, the finance was made available by the other co-accused from the amount of the Corporation. It is claimed that, after the amount was diverted to Metri Sugars the same was further diverted into reality business and another Company by name, Hub Town, Comaral Reality. Both of them are holding the shares to the tune of Rs.1.59 crores

and Rs.3.40 crores which amount was diverted to their Account out of the amount of the Corporation. Both these accused are direct beneficiaries as after having received the amount in the name of Annabhau Sathe Soot Girni, in which they are the Directors. Applicants have purchased a plot in MIDC, Nashik area for their personal gain.

14. Apart from the above observations, what has been noted in the present case is, because of siphoning of funds from the Corporation, the entire budget of the Corporation has collapsed and the amount of the Corporation in a systematic manner by conspiring, diverting the same to the various Accounts from which amount was withdrawn for the pecuniary benefit of the individual for which in law they were not entitled. The account details of each of the accused including that of various firms in which they were having interest reflects fraudulent transactions in cash also. Investigation till date reflects their *prima facie* involvement which also cause for their custodial interrogation.

15. The offence in question is an economic one which is required to be viewed separately from that of the regular offences. The impact of the economic offence like the one in the present case, as has been observed hereinabove, has already collapsed the entire budget of the Corporation and the real beneficiaries who belong to the socially backward

community (Matang Community) are denied of their rightful claim.

16. As a consequence of the above observations, in my opinion, no case is made out. The application fails. The same is rejected.

17. All the bail applications are rejected. At this stage, a prayer is made by the learned Counsel for the applicants that since the protection is operating since about a period of one year, the same be extended for a period of 4 weeks, which prayer is strongly opposed by the learned APP. However, in the interest of a justice and having regard to the fact that ad-interim protection is enjoyed by the applicant for a period of about one year, the same is extended by a period of 3 weeks.

(N.W. SAMBRE, J)