

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1690 OF 2016

Sau. Jayashri Shrikant Mate	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Aniket U. Nikam, i/b. Mr. Aashish Satpute, Advocate for the applicant.
Ms. Veera Shinde, APP, for the State.
Mr. S.K.Aher, HC/2150 EOW, Nashik (Rural).

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 4th October, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicant is apprehending her arrest in Crime No.149 of 2016 registered at Saikheda Police Station, Dist. Nashik for the offences punishable under Sections 403, 406, 408, 409,420, 464,465, 467, 468 read with Section 34 of IPC.

2. It is the case of the prosecution that Changdeo Pingle is the Auditor of Co-operative Societies, has lodged a report at the police station alleging therein that he had conducted the audit of Sanjivani Gramin Bigar Shety Sah Pat Sanstha Ltd. for the period 2009 to 2013. He had noticed

several discrepancies in the audit report. On the basis of the accounts, the ledger folios and several records, it was revealed that an amount of Rs.2,29,78,297/- was misappropriated by the office-bearers, employees and the borrowers of the Credit society. There is specific allegation that the present applicant had filed an application for seeking loan to the tune of Rs.3lakhs. The loan was never disbursed. It was an unsecured loan. She had also executed a deed of hypothecation. It also appears that her relatives were the office-bearers of the said Society.

3. The learned APP submits that an amount of Rs.30 lakhs was disbursed in favour of the applicant. No instalments were paid and therefore an inference should be drawn that she had aided the office-bearers to misappropriate the amount.

4. As against this, the learned counsel for the applicant submits that in the year 2015, the applicant had first issued a notice to the office-bearers of the Society and thereafter filed a complaint before the Judicial Magistrate, First Class, Niphad alleging therein that in the year 2013, she needed loan and that she had applied for loan of Rs.3 lakhs. She was taken to the Office of Registrar and hypothecation deed was executed. According

to her, despite persuasion, she had not received a single farthing in her account. Hence, she approached the Court of Judicial Magistrate, First Class, Niphad.

5. By an order dated 5.11.2015, the Judicial magistrate, First Class, Niphad, had issued directions under Section 156(3) of Cr.P.C. on the basis of which case No.21 of 2015 is registered with Saikheda Police Station against the office-bearers of the said Society.

6. The learned APP submits that the filing of the complaint by the present applicant is only an eye-wash. That she had approached the Court only after the depositors and investors had started filing complaints against the said Society.

7. The learned counsel for the applicant submits that the applicant herself is victimised and that the office-bearers have floated a loan in her name and have received the amount. Hence, it cannot be said that she has aided and abetted the office-bearers of the Society.

8. Taking into consideration the fact that the applicant had also

approached the Court and lodged a report in respect of being cheated by the office-bearers, prima facie, it cannot be said that custodial interrogation would be imperative. Taking into consideration the nature of allegations, the papers of investigation and the submissions advanced across the Bar, the applicant deserves to be granted pre-arrest bail. However, the 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 application is allowed.
- (ii) In the event of her arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station as and when called after issuing notice under Section 160 of Cr.P.C. and co-operate with the investigating agency to the best of her capacity.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)