IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 393 OF 2017

Tanaji Mahadev Garud & Ors … Applicants

vs.

The State of Maharashtra … Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 427 OF 2017

Juber Zamulal Bagawan … Applicant

vs.

The State of Maharashtra … Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 428 OF 2017

Santosh Shamrao Bhosale … Applicant

vs.

The State of Maharashtra … Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 429 OF 2017

Prashant Krishnaji Patil … Applicant

vs.

The State of Maharashtra … Respondent

Mr. Kuldeep Nikam, for the Applicant.

Mr. S. H. Yadav, A.P.P. for the State/Respondent in ABA No.397/2017 & ABA No.427/2017.

Mr. Deepak Thakare, A.P.P. for the State/Respondent in ABA No.428/2017 & ABA No.429/2017.

Mr. K. S. Pujari, PI, Kadegaon Police Station, Sangli, present.

Coram : T. V. NALAWADE, J.
Date : 8th August, 2017

P.C. :

1. All four Applications are filed for relief of anticipatory bail in Crime No.2 of 2017 registered in Kadegaon Police Station, District Sangli for the offences punishable under Sections 406, 408, 409, 420, 466, 468 r/w 34 of Indian Penal Code. Both sides are heard. The papers of investigation were made available to this Court for perusal.

2. The Applicants of Anticipatory Bail Application No.393 of 2017 were Branch Managers of the branches of Datta Nagari Sahakari Patsanstha, Kadegaon, a Cash Credit Co-operative Society. The places where they were working as Branch Manager are given in the F.I.R. The branches of the Society and the main branch run into losses and most of the branches were closed. The record of the branches was brought to the main branch at Kadegaon in the year 2007.

3. In the year 2008-2009 the State Government decided to help the co-operative institutions by giving them Government aid in the form of loan without interest. Under that scheme the State Government gave an amount of Rs.1,57,33,000/- to the aforesaid Society. This amount was to be given to the depositors, who were in dire need of the amount. Some criteria was fixed by the Government for giving the amount to the depositors. As there was irregularity, direction was given to the first informant Dilip Edke, Auditor to conduct audit of all the branches including the main branch of this institution for the period from 1^{st} April 2006 to 31^{st} March 2014. The audit was completed on 30^{th} October 2015.

4. The Auditor noticed that present Applicants, who were Branch Managers of 10 branches mentioned in the report, misused their post and had made payment to 652 persons, who were not depositors as described under the scheme of the Government. This amount was Rs.65.2 lakh. During audit it was noticed that the Branch Manager of Pushegaon branch who is the Applicant from the other proceeding, Branch Manager of Malkapur branch is the Applicant of separate proceeding and Branch Manager of Talmavle branch, who is the Applicant of one more proceeding had not produced the record of their respective branches in the main branch. On the basis of audit report and inspection of previous year the Auditor ascertained the amount which was lying in these branches. This amount was Rs.75,419/- in respect of Pushegaon branch, it was Rs.63,135/- in respect of Malkapur branch and it was Rs.1,69,568/- in respect of Talmavale branch. These Branch Managers had not produced the record and they could not show that all the aforesaid amounts were deposited in the main branch after closure of their branch. The Auditor noticed that there was overwriting and scratching in the original register. In the registers like 'kird' and registers of depositors called as 'khatavani' and by using peculiar *modus operandi* amount under Government scheme was shown to be disbursed and there was the other possibilities which can be inferred like misappropriation. Further, the Auditor specifically observed that in respect of other three branches of accused Nos.11 to 13 there was misappropriation of aforesaid amount. In view of this report, the FIR is registered for the aforesaid offences.

5. The learned Counsels for the Applicants of the four proceedings submitted that under the scheme the Officers like Registrars, Co-operative Society and even Auditor were expected to verify the record and so it cannot be said that only Managers were involved in the irregularities. On this the learned APP submitted that if the investigating agency finds that the Auditor who gave report was there for such scrutiny and he was involved in the irregularities, then action will be taken against the first informant also. Everything is a matter of record. Audit report as provided under Maharashtra Co-operative Societies Act, 1960, need to be given the weight. This Court gave an opportunity to the learned Counsels for the Applicants to show that in respect of any of the defected cases there was no irregularities as contended by the Auditor. The learned Counsels for the Applicants submitted that the record is not available with the Applicants. This submission cannot be accepted. When audit is done generally explanation is called of the concerned and only after that action is taken. The report was given on 4th January, 2017 and the audit was completed on 30th October, 2015. In view of these circumstances, this Court holds that thorough investigation needs to be made. There is clear possibility that in the name of some fictitious person the disbursement is shown to be made. There is allegation of overwriting and creation of false record also and so custodial interrogation is required. There is the question of Government money which was given to help the poor persons. In view of these circumstances, this Court held discretionary relief cannot be given in favour of the Applicants of all the proceedings.

6. In the result all Applications stand rejected.

7. The learned Counsels for the Applicants requested for continuation of interim relief. That request is refused and interim relief, if any, stands vacated.

[T. V. NALAWADE, J.]