

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.797 OF 2017

1. Mahadeo Tippianna Nagshetti .Applicants
2. Dattatraya Nagnath Shinde

Vs.

The State of Maharashtra .Respondent

Mr.P.G.Sarda, Advocate, for the Applicants
Mr.S.H.Yadav, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek pre-arrest bail in connection with C.R.No.131 of 2017 registered with the Jail Road Police Station, Solapur, for the alleged offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicants submits that the allegations as against the Applicants are false. He submits that even otherwise, all the documents are in the possession of the investigating

officer and as such, custody of the Applicants is not required. He submits that the Applicants have co-operated with the investigation. He further submits that an enquiry under Section 83 of the Maharashtra Co-operative Societies Act was conducted and in the said enquiry, the Inquiry officer had fixed the liabilities of all, including the Applicants. He submits that the said report has been challenged by the Applicants before the appropriate authority.

4. Learned APP has filed an Affidavit of Dattatray Mahadeo Pawar, Police Inspector attached to the Solapur City Jail Road Police Station. According to the learned APP, during the course of investigation, it was revealed that the Applicants had misappropriated an amount of Rs.2,28,392/- by issuing three bearer cheques and had withdrawn the amount from the Bank of Maharashtra, Navi Peth, Solapur. He submitted that one of the Applicants had issued a cheque of Rs.1,26,000/- on 01.06.2015 in the name of 'Om Computer Sales and Services' and the said amount was withdrawn by the Applicants. He submits that another bearer cheque dated 11.04.2015 for an amount of Rs.55,892/- was also withdrawn by one of the Applicants and a bearer cheque dated 26.03.2015 for an amount of Rs.46,500/- drawn in the name of 'Vansh Electronics' was also withdrawn by the Applicants. He

submits that from the statements of the staff members of the patsanstha, it is evident, that the Applicants had issued cheques to 'Om Computer Sales and Services' and 'Vansh Electronics' for purchase of Computer, Laptop etc. for the Chaturth Shreni Sahakari Patsanstha Ltd., however, the said articles were not delivered to the office. Learned APP further submitted that under Section 107(d) of the Maharashtra Co-operative Societies Act, every Co-operative Society is required to make payments by issuing cross or A/c. Payee cheques, but instead, the Applicants issued bearer cheques and withdrew the amount and utilised the same for their own benefit. He submits that both the Applicants, as Chairman and Secretary of the Patsanstha had taken disadvantage of their posts and had misappropriated an amount of Rs.2,28,392/-.

5. Perused the papers. It appears that the Applicant No.1 was the Chairman and the Applicant No.2 was the Secretary of the Patsanstha, during the relevant time. It appears that three bearer cheques were issued; (i) on 01.06.2015 for Rs.1,26,000/-; (ii) on 11.04.2015 for Rs.55,892/- and (iii) on 26.03.2015 for Rs.46,500/- and monies were withdrawn. It appears that an enquiry under Section 83 of the Maharashtra Co-operative Societies Act was conducted and the enquiry officer has fixed the liabilities of the Applicants. It is not in dispute, that

the said enquiry report has been challenged by the Applicants before the appropriate authority. The evidence is based on documents and the documents are in possession of the investigating officer. In the facts, custodial interrogation of the Applicants is not required. Accordingly, the Application is allowed and the Applicants are granted pre-arrest bail on the following terms & conditions:-

ORDER

- (i) In the event of arrest, the Applicants be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/- each** with one or two sureties in the like amount;
- (ii) The Applicants shall report to the investigating officer of the concerned police station **as & when called for** by the investigating officer till the filing of the charge-sheet or for a period of three months whichever is earlier;
- (iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)