

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1328 OF 2017

Sita Datatraya Bhaimane also known as
Shital Sukumar Kamble ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Satyavrat Joshi, for the Applicant.
Mr. A.P. Palkar, for the State/Respondent.

CORAM: T.V. NALAWADE, J
DATED: 10th August 2017

PC:-

1. The Application is filed in Crime No.108 of 2017 registered in Shahapur Police Station, Taluka Hatkanagale, District Kolhapur. The crime is registered for the offences punishable under Section 420, 406, 409 r/w 34 of Indian Penal Code. Both sides are heard.

2. The crime is registered on the basis of report given by the Government Auditor. As per the order made by his superior officer he conducted audit of Aadarsh Magasvargiya Audyogik Sahakari Sanstha Shahapur. The co-operative society is formed by backward class persons. For the period of 5th September, 2005 to 31st March, 2012

the audit was done and he submitted the report on 3rd June, 2017. In inspection he noticed that the amount of Rs.3.15 crores was misappropriated by the members of the Managing Committee of the Society.

3. The aforesaid society was formed for running a foundary and for producing engineering parts. There was a Government scheme and under that scheme the Government was giving amount for investment and long term loan was given without charging interest to the Society. Such amount as released by the Government and that amount was more than Rs.3.80 crores. The amount was collected from other sources included by way of loan and thus the total amount of Rs.5.47 crores was collected by this Society.

4. The Auditor found that the amount of Rs.2.11 crores was shown to be spent for purchasing machinery as advance. He noticed that such machinery was never purchased and even on 28th May 2017 no such machinery was found to be installed at the place where the factory was to be started. Due to this circumstances, he reported that the amount of Rs.1.91 crores shown to be spent for purchasing machinery has been misappropriated. Similarly, reported that when there was no need to spend for development of the land, the amount of Rs.8 lakh was shown to be spent for development. When there was no constructed building an amount of Rs.12 lakh shown to be spent as electric advance. Similarly, on amount which was

kept in the bank in the name of the Society, loan was taken by the Society and that amount was misappropriated.

5. The Auditor noticed that when the amount of Rs.76.25 lakh was spent for construction of factory, some portion of building was found and it was in dilapidated condition. The construction was not completed.

6. The learned Counsel for the Applicant submits that the Applicant is a lady and she came in picture on 10th January 2012, when she was elected. He drew attention of the Court to the record showing that in the election in which there was no contest, the Applicant and other members were shown as unanimously elected. Though there is such record, after that also the amount of Rs.63 lakh was shown as spent by this Managing committee. If there was no machinery, if there was no building and there was no question of functioning of factory, there was no reason to spend amount, but the amount was spent. It can be said that the persons who were involved in the Management got money from the Government under the scheme and misappropriated that amount. That object to form society for that was achieved by them. Even if the other part of fraud is ignored, it can be said that the Government money of more than Rs.3.8 crores is misappropriated by these persons. Only because as the Applicant is lady, a lenient view cannot be taken in such matter. Custodial interrogation is must and on that basis police can find out where the money has gone. That money

needs to be recovered and that money needs to be given back to the Government. Thus it is not fit case to grant the relief of anticipatory bail.

7. In the result, the Anticipatory Bail Application is rejected. Ad-interim relief, if any, is vacated.

(T. V. NALAWADE, J.)