

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1762 OF 2016

Abdul Dayem Kasim Ansari	Applicant
versus	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.1803 OF 2016

Mrs.Sarah Afzal Varmani and others	Applicants
versus	
Mohd. @ Khoja Hussain Bagwan	Respondents

Mr.B.V.Salunkhe for Applicant in ABA.1762/2016.
Mr.Dilip Shinde for Applicants in ABA.1803/2016.
Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 27th June 2017

PC :

1. The Applicants are seeking anticipatory bail in connection with MECR No.1 of 2016 registered with Mankhurd Police Station for the offences punishable under Sections 415, 420, 406, 466, 467, 471, 506-II read with Section 34 of Indian Penal Code.

2. First information report ('FIR') is lodged by Mohammed Bagwan, a member of Mangalmurti Society, Mankhurd. It is alleged that in the said report, the Applicant no.1 in ABA No.1803 of 2016 was the chairman of the said society and Applicant no.1 in ABA No.1762 of 2016 is the treasurer. It is alleged that during their tenure the Applicants have misappropriated the funds of society to

the tune of approximately Rs.60 lakhs. A private complaint was filed by the complainant in which directions were issued under Section 156(3) of Code of Criminal Procedure, 1973. Pursuant thereto, an FIR was registered. The main allegation is that the Applicants without following due procedure prescribed under the bye-laws of Maharashtra Co-operative Societies Act, advanced Rs.45 lakhs to M/s.Jinal Constructions.

3. By order dated 25th October 2016, interim protection was granted to the Applicants in Anticipatory Bail Application No.1803/2016 and vide order dated 30th October 2016 to the Applicants in Anticipatory Bail Application No.1762/2016. In the order dated 25th October 2016 it was observed that the statement of one Narsi Patel was recorded where he accepted receipt of Rs.45 lakhs from Mangalmurti Society. It, therefore, appears that the Applicants have not followed the procedure. However, the Applicants were directed to attend the investigating officer and to join the process of investigation. Learned advocate for Applicants submits that the Applicants in both the applications had complied with the said directions and had attended police station and co-operated with the investigation. It is submitted that all the documents are in custody of administrator appointed of the society and which were made available to the investigating officer and custodial interrogation of the Applicants is not necessary.

4. Learned APP did not dispute the fact that Applicants had attended the police station. Learned APP states that the investigating officer is not present in the Court. However, taking into consideration the fact that the matter is governed by documents and

in view of the interim order dated 25th October 2016, the applications can be allowed.

5. Hence, I pass following order :

(i) Anticipatory Bail Application Nos.1762 of 2016 and 1803 of 2016 are allowed;

(ii) Interim order dated 25th October 2016 in ABA No.1803 of 2016 and interim order dated 30th October 2016 in ABA No.1762/2016 are hereby confirmed;

(iii) The Applicants are directed to report Mankhurd Police Station once in a week on every Saturday between 5.00 p.m. and 7.00 p.m. till filing of charge sheet and thereafter as and when called;

(PRAKASH D. NAIK, J.)

MST