IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1487 OF 2018

Vijay Shantaram Kokane ….Applicant.

Vs.

The State of Maharashtra ….Respondent.

Mr. D.D. Rananaware for the Applicant.
Mr. Ajey Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 4th DECEMBER, 2018.

P.C.:-

This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No. 26 of 2018 dated 17th February, 2018 registered with Wathar Poolice Station, District Satara, under Sections 420, 466, 467, 468, 166 and 167 read with Section 34 of the Indian Penal Code and under Sections 146(b) (j) (k) (p), 174, 73(1A,B), 81(1)(e), (1) (2) (3) & 3 (A) (B) (C), 75(2) (2A) (3) (4) (5) of the Co-operative Societies Act.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the record of investigation.

3 The first information report is lodged by Shri Anandrao

Kapse, a Certified Auditor, Co-operative Societies. It is stated that, the Applicant was working as a Secretary of Deur Multi Purpose Co-operative Credit Society, Deur, Taluka Koregaon, District Satara.

The informant conducted audit for the period ranging from 1st April, 2008 to 31st March, 2013 and it is found that, approximately an amount of more than Rs.2 Crores have been misappropriated by the Applicant and the office bearers of the said Society. Paragraph No. 6 of the first information report mentions that, the Applicant is direct beneficiary of approximately Rs.29 lakhs from the proceeds of the said crime. It is *inter-alia* stated that, the Applicant has committed the said act of misappropriation and/or defalcation, thereby causing loss to the said Society approximately to the tune of Rs. 29 lakhs.

5 The learned counsel appearing for the Applicant submitted that, the co-accused i.e. office bearers of the said Society have been granted pre-arrest bail by the Sessions Court and it is only the Applicant whose Application has been rejected. He further submitted that, the Applicant is similarly situated with those other accused persons and therefore, the Applicant is entitled to be protected by pre-arrest bail on the ground of parity.

6 The record of investigation indicates that, the Applicant is also an accused in CR No. 137 of 2014 registered with Wathar Police Station under Sections 166, 167, 409, 418, 422, 468, 471, 477(k) and in the said crime the Applicant was granted regular bail by the Trial Court by its Order dated 13th January, 2015.

It appears that, after release on bail in the earlier crime, the Applicant has indulged into the commission of the present crime. The allegation against the Applicant that, he being Secretary of the said Credit Society, has committed defalcation of huge public funds itself is a serious allegation and needs to be investigated by the investigating agency thoroughly.

7 As noted earlier, the amount allegedly misappropriated by the Applicant is huge and public money is involved in the present crime. Undoubtedly, the present offence, as against the present Applicant is an economic offence.

The Supreme Court in the case of *Nimmagadda Vs. Central Bureau of Investigation*, *reported in (2013) 7 SCC 466,* has held that economic offences formed separate class and needs to be dealt with differently.

9 In view of the above and after taking into consideration the gravity of the offence and the serious allegations against the Applicant, this Court is of the considered view that the Applicant does not deserve to be protected by pre-arrest bail.

10 Application is accordingly rejected.

(A.S. GADKARI, J.)