IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2429 OF 2017

Shri Sunil Nandev Kanase Applicant
Versus
The State of Maharashtra Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 2551 OF 2017

Shri Rakesh Munswami Naidu Applicant

Versus
The State of Maharashtra Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 2586 OF 2017

Amol Jagannath Kamble Applicant

Versus
The State of Maharashtra Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 2785 OF 2017

Mr. Ajay Dashrath Raut Applicant

Versus
The State of Maharashtra Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 2902 OF 2017

Mr. Shailendra Ramesh Deshpande ... Applicant

Versus
The State of Maharashtra ... Respondent

Mr. Gajendra K. Jadhav, for the applicant (in BA/2429/2017)
Mr. M.P.Rao, Senior Counsel i/b. Mr. Vishal L. Kolekar for the applicant in BA/2586/2017
Mr. Chandraprakash K. Tripathi, for the applican5t in BA/2785/2017.
Ms. Pramila Bhaingade i/b. Mr. M.Janardhanam for the applicfant in BA/2551/2017
Mr.Shirish Gupte, Senior Counsel i/b. mr. Dilip Bdake for the appolicant in BA/2902/2017.
Ms. Veera Shinde, APP for the State in BA/2429/201 & BA/2902/2017.
Ms. P.P.Shinde, APP for the State in BA/2551/2017 & BA/2785/2017.
Mr. Avinash Kamkhedkar, APP, for the State in BA/2586/2017.
Mr. S.H.Khade, Police Naik, Dahiwadi Police Station present.

CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 12th February, 2018.

P.C. :

1. Heard. These are the applications under Section 439 of the Code of Criminal Procedure, 1973. The accused are seeking enlargement on bail in Crime No.272 of 2017 registered at Vaduj Police Station for the offences punishable under Sections 406, 408, 420, 468, 471 read with

Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 4.8.2017, Dadasaheb Rohidas Kamble working as Sub-Divisional Officer, Khatav Division lodged a report at the police station alleging therein that the Government of Maharashtra, in order to extend aid to the drought affected farmers, had sanctioned an amount of Rs.40,13,80,000/-. That an amount of Rs.6,28,75,832/- was allotted for 12,844 drought affected farmers. It was revealed that an amount of Rs.2,92,95,489/- was not disbursed in favour of the drought affected farmers, but was misappropriated by forging and fabricating documents by creating a bogus list and for the purpose of the personal benefits of the accused/applicants before this Court. The case of each of the accused/applicant needs to be considered individually.

Criminal Bail Application No.2586 of 2017.

3. The accused/applicant is one Amol Jagannath Kamble, who was officiating as Tahsildar at Vaduj at the relevant time. The amount was received at Vaduj Branch from State Bank of India. The Tahsildar was expected to deposit the said cheque in the account of Satara District Central Co-operative Bank from which it would be disbursed to the respective

farmers through respective Branches. It is the case oaf the prosecution that Amol Kamble had prepared a list of non-existing farmers and had created fictitious accounts and in connivance with the Branch managers of ICICI Bank, Karad Merchant Co-operative Society, Chaitanya Rural Non-agriculturist Co-op. Credit society (hereinafter referred to as "the said Society) had misappropriated the funds. After concluding the investigation, the charge against the present applicant is that a substantial amount was disbursed to the affected farmers It was only at the time of disbursement of the last instalment that false records and fraudulent withdrawals were made. Amol Kamble was holding an account in ICICI Bank, Vaduj Branch. On 26.7.2016, he deposited Rs.1,22,000/-, on 28.7.2016 he deposited Rs.1,47,000/-, on 15.9.2016 from SBI Rs.1,00,000/-, on 23.9.2016 by SBI cheque Rs.1,00,000/-, on 29.9.2016 and 30.9.2016 Rs.1,00,000/- and Rs.1,50,000/- respectively. The total amount of Rs.7,20,592/-. He had withdrawn the said amount in cash from ICICI Bank

4. A cheque of Rs.2,44,60,959/- was drawn in the name of the said Society by the then Tahsildar Amol Kamble. The amount was encashed and then credited into the account of the said Society. That Rakesh Naidu had approached Karad Merchant Co-operative Society since he was

acquainted with the Branch Manager Sunil Kanase, who is applicant in Criminal Bail Application No.2429 of 2017. The account was opened in the name of Pravin Shindade. The Branch Manager of the said Bank i.e. Sunil Kanase was informed by Rakesh Naidu that Mr. Shindade is not available for opening the account and he happens to be the good friend of Rakesh Naidu. Mr. Kanase had allowed Mr. Rakesh Naidu to open an account in the name of Pravin Shindade and at that relevant time, an amount of Rs.48,50,000/- was deposited in the said account with Karad Merchant Co-operative Society. It is pertinent to note that Mr. Naidu was permitted to withdraw the amount on behalf of Shindade. the amount was then transferred to the said Society at Vaduj Branch and by RTGS was transferred to ICICI Bank. It is the case of the prosecution that the accused/applicants had conspired to misappropriate the said amount. In fact, the first point of of the conspiracy that was hatched had started with the applicant Amol Kamble who was responsible for enlisting non-existing farmers and creating fictitious accounts for raising a demand of Rs.2,44,60,858/-. In fact, according to the prosecution, the Government cheque of Rs.48,50,000/- was encashed and credited in the account of Pravin Shindade at Karad Merchant Co-op. Society. The entire amount of

Rs.48,50,000/- was withdrawn by Rakesh Naidu on various dates during the period 16.7.2016 to 21.7.2016.

5. The learned APP has submitted that in fact the papers of investigation would show that the applicant has benefited from the said misappropriation. He has allegedly disbursed the amounts in favour of his family members, including his wife and his wife had withdrawn huge amounts after opening the account. It is apparent on the face of the record that the role assigned to the applicant can be said to make him liable for the offences under Sections 467, 468, 471 and 420 of the Indian Penal Code and hence he does not deserve to be enlarged on bail.

Criminal Bail Application No. 2429 of 2017

6. Sunil Namdev Kanase happens to be the Branch Manager of Karad Merchant Co-operative Bank. The learned counsel for the applicant has vehemently submitted that in fact he is not a beneficiary of the alleged misapprehension. That the applicant had only allowed the accused/applicant Rakesh Naidu to open an account in the name of Pravin Shindade and that he had not even suspected that this is a misappropriated amount. He trusted the accused Rakesh Naidu. He had only instructed

that he be permitted to withdraw cash. It is pertinent to note that Rakesh Naidu had withdrawn an amount of approximately more than Rs.23 lakhs . The flow of amount as mentioned by one of the witnesses is that the cheque of Rs.15 lakhs was given to Rakesh Naidu. He deposited the same in ICICI Bank and had withdrawn the same in cash. On 18.7.2016, Rakesh Naidu had again deposited Rs.10 lakhs by a cheque in ICICI Bank and had withdrawn the same. in fact, the cheques were given in the name of Karad Bank and not in the name of Pravin Shindade. He had withdrawn some cash amounts to the tune of Rs.5,00,000/- and Rs.3,50,000/-. The very fact that the Manager had facilitated Rakesh Naidu to open an account in the absence of the account-holder and deposited a cheque of Rs.48,50,000/- that too of the SBI and thereafter had given him the Bankers Cheque to be deposited in ICICI Bank and facilitated him to withdraw the amount is enough to show that the applicant Sunil Kanase was a part of the whole conspiracy and unless he had facilitated the same, the amount of Rs.48,50,000/- would not have been misappropriated by Rakesh Naidu. Hence, his involvement in the sid case is apparent on the face of record. He had hatched the conspiracy with Rakesh Naidu and Amol Kamble.

Criminal Bail Application No.2551 of 2017

7. This application is filed by Rakesh Naidu who was working as Branch Manager of ICICI Bank

8. The learned counsel for the applicant vehemently submits that the applicant has been falsely implicated in the said offence and has been framed by the co-accused for the reasons best known to them. According to the learned counsel for the applicant, the applicant has not benefited. He deserves to be enlarged on bail. The records are otherwise. In fact, it was Rakesh Naidu who had opened the account in the name of Pravin Shindade in connivance with the Branch Manager of Karad Merchant C-op. Bank – Sunil Kanase who had introduced him to the Bank as pravin Shindade. The statement of account of Pravin Shindade would show that while opening the account Rakesh Naidu had deposited Rs.200/- on 5.7.2016 and on 6.7.2016, Rakesh Naidu had transferred from ICICI Bank an amount of Rs.48,50,000/- in the account of Pravin Shindade. On the same day, an amount of Rs.15,00,000/- was withdrawn, on 8.7.2016, Rs.20,00,000/- was withdrawn in cash and on 1.7.2016 he had withdrawn an amount of Rs.3,50,000/- thereby leaving a balance of Rs.200/-.

9. The bank account statement of Mrs. Vijaya Manuswami Naidu

would show that an amount of Rs.3,04,586/- was deposited on 23.8.2017 by transfer. An amount of Rs.2,00,000/- was withdrawn by cash and so on. The said account is freezed. The records also show that on 27.7.2016, an amount of Rs.24,00,000/- was transferred by RTGS from Vita Merchant Branch to Chaitanya Credit Society. On 28.7.2016, an amount of Rs.40,00,000/- was deposited in the account of the said Credit Society and on 28.7.2016, Rs.25,00,000/- were withdrawn by cash from the said Credit Society and Rs.15,00,000/- were also withdrawn. On 6.8.2016, an amount of Rs.9,00,000/- was deposited in the account of one Sheetal Kamble in IDBI Branch at Sion and on the same day, an amount of Rs.9,00,000/- was transferred by RTGS to State Bank of Hyderabad, Osmanabad Branch in the name of Jagannath Kamble i.e. account of Amol Kamble. on 8.8.2016, an amount of Rs.9,00,000/- was transferred by RTGS in the account of Aarti Mukund Bhutpalle who happens to be the wife of Amol Kamble. In view of the above material, the accused/applicant does not deserve to be enlarged on bail.

Criminal Bail Application No.2785 of 2017

10. The applicant is Ajay Raut who was working as Avval

Karkoon in the office of Tahsildar at Vaduj. It is the case of the prosecution that he had prepared a list of bogus farmers in connivance with the Tahsildar – Amol Kamble and had submitted the list of the year 2015 which was never given to the said Tahsildar. The material on record would indicate that by an order dated 18.6.2016, the applicant – Ajay Raut was transferred to the Office of Circle Officer at Vaduj on administrative ground.

11. The learned counsel for the applicant submits that the applicant is on the verge of retirement. That he was working under the instructions of Tahsildar Amol Kamble and had prepared the list which was given to him by the Tahsildar, approved by the Tahsildar and endorsed by the Tahsildar. It is submitted that all transactions are made after18.6.2016 and hence it cannot be said that the applicants had conspired either with Amol Kamble or with Rakesh Naidu, Sunil Kanase and others. The list of the drought affected farmers is false and fabricated at this stage, knowledge of conspiracy between Amol Kamble, Rakesh Naidu and others cannot be attributed to the present applicant and hence the applicant deserves to be enlarged on bail. However, the observations would be restricted to an application under Section 439 of Cr.P.C. and shall not be taken into

consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

Criminal Bail Application No. 2902 of 2017

12. The applicant is Shailendra Ramesh Deshpande who happens to be the Branch Manager of Chaitanya Co-operative Credit Society.

13. On 26.7.2016, the applicant had directed his subordinates to deposit a cheque of Rs.2,44,66,858/- in the account of Chaitanya Society in Current account of Vita Branch. The drawee of the said cheque was State Bank of India. The cheque was passed on the same day and the amount was credited in the account of said Society in Vita Branch. On next day Rakesh Naidu opened an account in the Credit Society. The account opening form was signed by the present applicant At the instance of Shri Deshpande, the amount of Rs.2,44,66,858/- was deposited in the account of Rakesh Naidu in the Credit Society which he had opened on the previous day. The cheques drawn on several Banks was encashed and deposited in the Society at the instance of the present applicant and Naidu was withdrawing the cash. At the instance of Shri Deshpande, an amount of Rs.80,00,000/- was transferred to various Banks in the account of Amol

Kamble. The Branch Manager of Vita Merchants Co-op. Bank has disclosed to the police that on 26.7.2016, Shailendra Deshpande had personally visited Vita Merchants Bank and deposited a cheque of Rs.2,44,60,858/- in the account of Chaitanya Society. Vita Bank had only facilitated the realization of the said cheque in the account of the holder i.e. Chaitanya Society.

14. In fact, the said funds were allocated for disbursement to drought affected farmers. The claimants had given their account numbers but while preparing the list bogus account numbers were mentioned and the amount was misappropriated by the Accused/Applicants. The farmers had led an agitation claiming that the amounts sanctioned as relief fund were never deposited in their accounts. Farmers, who are victims of natural calamities were further victimised by the handful of people for their own personal benefits. Some farmers were driven to commit suicide as they could not repay the loans due to drought situation.

15. After receiving complaints from farmers, the SBI had given a statement of account which showed that a cheque of Rs.48,50,000/- was deposited in Karad Bank by the Tahsildar Amol Kamble and Rs.2,44,60,858/- in the account of Chaitanya Society. The flow chart of the

amounts would show the involvement of all accused except Ajay Raut.

16. Hence the following order :-

<u>O R D E R</u>

(I) Bail Application No. 2785 of 2017 filed by Ajay Raut is allowed.

(ii) The applicant – Ajay Raut be enlarged on bail upon furnishing bail bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

(iii) Criminal Bail Application Nos. 2429 of 2017, 2551 of 2017, 2586 of 2017 and 2902 of 2017 are rejected.

(SMT.SADHANA S.JADHAV,J.)