

53- ABA 2100 of 2017 and Ors.

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

ANTICIPATORY BAIL APPLICATION No. 2100 OF 2017

Manikshet Tulshiram Dudhane	...Applicant
Vs.	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION No. 153 OF 2018**

Raghunath Abasaheb Deshmukh	...Applicant
Vs.	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION No. 2125 OF 2017**

Dnyanoba nato Vedepatil	...Applicant
Vs.	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION No. 2126 OF 2017**

Bajrang Dinkar More	...Applicant
Vs.	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION No. 2149 OF 2017**

Devram Shivram Urit

...Applicant

Vs.

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION No. 2172 OF 2017

Kondiram Nathuji Dhumal

...Applicant

Vs.

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION No. 2175 OF 2017

Mhalsakant Govindji Patil

...Applicant

Vs.

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION No. 2205 OF 2017

Prakash Gunda Tarde

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Subir Sarkar for Applicant in ABA/2100/2017

Mr. Umesh R. Mankapure for Applicant in ABA/153/2018 and ABA/2175/2017

Mr. Aniket U. Nikam i/b. Mr. Aashish Satpute for Applicant in ABA/2126/2017

Mr. Jayant J. Bardeskar for Applicant in ABA/2149/2017

Mr. M.S. Mohite i/b. Mr. Veerdhaval Kakade for Applicant in ABA 2172/2017

Mr. M.S. Mohite i/b. Mr. Nilesh M. Wable for Applicant in ABA /2205/2017

Mr. S.H. Yadav- APP in ABA/2100/2017, ABA/153/2018, ABA/2125/2017, ABA 2126/2017, ABA/2149/2017, ABA/2172/2017, ABA/2205/2017

Mr. S.R. Agarkar- APP in ABA/2175/2017

Mr. A.V. Kadam, PSI, Watje Malwadi Police Station, Pune

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: AUGUST 13, 2018

P.C.

1. Heard the learned counsel for the Applicants and the learned APP for State.
2. These are the applications filed under section 438 of the Criminal Procedure Code.
3. The Applicants are seeking pre-arrest bail in Crime No. 489 of 2018 registered at Warje Malwadi Police Station for the offences punishable under section 406, 408, 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code. The Applicants herein were the directors of the Viganahar Nagri Sahkari Pat Sanstha Maryadit (Cooperative Credit Society) at Warje, Malwadi. On 21st November, 2016, the Special Auditor, Class I, lodged a report at the police station alleging therein that the directors and the office bearers of the said credit Society had misappropriated a huge amount from the said credit society and the said misappropriated amount is Rs.2,63,26,947/-. The audit report shows that there were various modes of misappropriation. Unsecured loans were given to the people and they had stood sureties to some of the loans which were sanctioned. The loans were given for purchase of motor vehicles. The mortgage deed was executed. However, for more than 10 years, the said amount has not been recovered by the said society. Similarly, although there were no fixed deposits,

loans were given to the borrowers against the fixed deposits. There were bogus saving schemes. The loans were given in the name of personal loans. However, there was no corroborative material to support the loan proposal.

4. It is submitted by the respective counsel submits that in fact, the Applicants had also made huge deposits in the said society. They had given an undertaking to this Court that they are not claiming the fixed deposits.

5. The Learned APP submits that in fact, there was no money accounted in the said society and it is possible that these are bogus fixed deposit receipts and, therefore, the Applicants do not deserve pre-arrest bail. The chairman of the bank has been granted bail under section 439 of Cr.P.C.

6. The respective counsel submit that in fact, in January, 2017, an inquiry under section 88 of the Maharashtra Co-operative Societies Act has been initiated and the same is in progress. It is submitted that initiation of prosecution is not for the purpose of recovery of the amount as the liability has to be fixed by the Assistant Registrar, Co-operative Societies, who is seized with the inquiry under section 88 of the Maharashtra Co-operative Societies Act, 1960.

7. It is pertinent to note that the first information report was lodged by the

Auditor on 21st November, 2016 and the inquiry is initiated in January, 2017.

In view of this, interim relief granted in favour of the Applicants, deserve to be confirmed on the same terms and conditions.

8. The observations are restricted to an application under section 438 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.

9. Hence, the following order is passed.

ORDER

(i) In the event of arrest, the Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each and one or more sureties in the like amount.

(ii) The Applicants shall report to the concerned police station as and when called.

Applications are allowed in the aforesaid terms. and disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]