

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1704 OF 2019

Anil Dnyandev Nalawade] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.1521 OF 2019

Gajanan Govind Sawant and Ors.] ... Applicants

Versus

The State of Maharashtra] ... Respondent

Mr. Kedar Patil, Advocate for the Applicant in both ABA's.
Ms. S.S. Kaushik, APP for the State/Respondent in ABA No.1704/19.
Mr. S.H.Yadav, APP for the State/Respondent in ABA No.1521/19.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 2nd AUGUST, 2019.

P. C. :-

1. Both these applications are being decided by this common order because they arise out of the same C.R. No.154/2019 registered with Sangli Rural Police Station, District Sangli.

2. The applicants are seeking anticipatory bail in connection with this offence which is registered on 07/06/2019 u/sec. 420, 406, 408, 409, 465, 468 of I.P.C. at the instance of the first informant Sayajirao Patil who was the auditor for co-operative society in District Sangli.

3. The informant was assigned the work of conducting audit in respect of Narveer Tanaji Gramin Bigar Sheti Sanstha Ltd. It was a co-operative credit society. He was auditor for the period from 01/04/2013 to 31/03/2017. The informant found out that, there was misappropriation of different amounts from different accounts. The FIR mentions names of various account holders who had no amount as credit in their account and yet some different amounts were shown in their accounts. Those amounts were withdrawn and misappropriated. The FIR mentioned in all Rs.2,02,493/- were misappropriated. Based on these allegations, the FIR is lodged.

4. The FIR clearly mentions that, the Secretary of the society had shown wrong figures in the accounts and had withdrawn the amount. The FIR squarely shifts the blame on the Secretary of the society. The allegations against the present applicants are that, they were the

Directors of the said credit society and they had not kept proper control over the affairs of the society.

5. Heard Mr. Kedar Patil, Advocate for the Applicant in both ABA's, Ms.S.S. Kaushik, Ld. APP for the State/Respondent in ABA No.1704/19 and Mr. S.H.Yadav, Ld. APP for the State/Respondent in ABA No.1521/19.

6. Mr. Patil submitted that, the FIR itself makes it clear that, the offence is committed by the Secretary of the society who was already arrested in connection with this offence. The only allegations against the applicants are that, they have not kept control over the affairs of the society and they did not take preventive measures.

7. Ld. APP relied on the claims in the FIR and opposed the application.

8. I have considered these submissions. The FIR thus clearly mentions that, the Secretary of the society has committed this offence. The only allegations against the present applicants are that, they are Directors of the society and they did not exercise control over the

affairs of the society and therefore they were also responsible. Thus, they were arraigned as accused on vicarious liability.

9. The FIR and the submissions do not spell out any particular offence committed by the present applicants. There is nothing on record to show that, the offence was committed with collusion or in connivance with the present applicants. Just because they were Directors of the society, that by itself will not mean that, they were party to this misappropriation. Beyond mere allegations mainly against the Secretary of the society there is hardly any material in the FIR against the present applicants. In this view of the matter, their custodial interrogation is not necessary. Though the Investigating Officer can call them for the investigation purposes as and when required. Hence, the following order.

ORDER

1. In the event of their arrest in connection with C.R. No.154/2019 registered with Sangli Rural Police Station, District Sangli, the Applicants are directed to be released on bail on their furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.

2. The applicants shall attend the concerned police station as and when called and shall co-operate with the investigation.
3. Both the Applications stands disposed of accordingly.

(SARANG V. KOTWAL, J.)