IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 76 OF 2018

Vilas Shrawan Shinde ...Applicant

Vs.

State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.531 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO. 76 OF 2018

Kusum R. Veer ...Applicant

Vs.

State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.964 OF 2019
IN
CRIMINAL APPLICATION NO.531 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO. 76 OF 2018

Rajendra Ramchandra Veer ...Applicant

Kusum Veer ...Intervener

In the matter between
Vilas Shrawan Shinde ...Applicant

Vs.

State of Maharashtra ...Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.675 OF 2018

Rajendra Hiralal Gandhi & Anr. ...Applicants

Vs.

State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.529 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO.675 OF 2018

Kusum R. Veer ...Intervener

In the matter between

Rajendra Hiralal Gandhi & Anr. ...Applicants

Vs.

State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.965 OF 2019
IN
CRIMINAL APPLICATION NO.529 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO.675 OF 2018

Rajendra Ramchandra Veer ...Applicant

Kusum Veer ...Intervener

In the matter between

Rajendra Hiralal Gandhi & Anr. ...Applicants

Vs.

State of Maharashtra ...Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 676 OF 2018

Sanjay Hiralal Gandhi & Ors. ...Applicants

Vs.

State of Maharashtra ...Respondent

- Mr. Kuldeep U. Nikam, Advocate for the Applicant in ABA 76/18.
- Mr. Ajit J. Kenjale, Advocate for the Applicant in ABA 675/18 & ABA 676/18
- Dr. Mohan Gurkhe & Karan Chauhan I/b. Suresh S. Lanke, Advocate for Intervener in APPP. 531/18 and APPP. 964/19 & APPP.529/18 and APPP.965/19.
- Ms. S. S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th JULY, 2019

P.C. :

1. All these anticipatory bail applications arise out of the same C.R. No.369/2017 registered with Koregaon Police Station, District Satara under Sections 420, 406 r/w. 34 of IPC and under

Section 3 of the Maharashtra Protection of Interests of Depositors in Financial Establishments Act, 1999. Since all these applications arise out of the same offence, they are being decided by this common order.

2. The offence pertains to misappropriation of depositors' amount deposited with Shri. Datta Digamber Nagari Sahakari Path Sanstha which was subsequently renamed as Divya Datta Digamber Nagari Sahakari Path Sanstha which was a co-operative credit society. The applicant in ABA No.76/2018 Vasant Shinde was the Chief Executive Officer of the said Credit Society since the year 2017 and before that he was working as a General Manager since from inception of the society. Applicants Rajendra Gandhi and Bhagwan Shirke in ABA No.675/2018 were the Chairman and Vice Chairman respectively between the period 2011 to 2016 and thereafter, since 2018. Prior to that, they were Directors of the society from year 2000. Other applicants i.e. applicants in ABA No.676/2018 Sanjay Gandhi, Tajuddin Inamdar, Laxman Shinde, Ratnamala Bobade, Dnyandev Kadam and Mahesh Vadgavi were

on the Board of Directors at the relevant time.

3. The FIR is lodged by one Vishwas Barge on 26/12/2017. In short, his allegations are that between the year 2011 to 2014 he had deposited around Rs.6,60,000/- with the said credit society and he was to receive Rs.8,69,156/- including interest. However, when his investment matured, he was not returned any money and therefore, he lodged the complaint. Based on these allegations, the FIR was lodged.

4. The investigation was carried out and all these applicants in their applications are seeking anticipatory bail in that connection.

5. Heard Mr. Nikam, Ld. Counsel for the Applicant in ABA No.76/2018, Mr. Kenjale, Ld. Counsel for the Applicants in ABA Nos.675/2018 & 676/2018, Mr. Gurkhe & Mr. Chauhan, Ld. Counsel for the Intervener and Ms. Kaushik, Ld. APP for the State.

6. Shri. Nikam pointed out that applicant Vasant Shinde was the Chief Executive Officer of the Credit Society since the year 2017 and before that he was the General Manager. He had no authority to sanction or distribute loans. He had to obey the orders of the Board of Directors. Therefore, if any decision was taken with malafide intention he was not a party to that. He further invited my attention to the letter dated 30/3/2016 wherein the District Deputy Registrar had written a letter to the Joint Sub-Divisional Registrar. It was mentioned in the letter that the said credit society had 9 branches. About 11 other credit societies which were facing financial difficulties were merged with the said credit society. At the end of February 2016, the credit society showed profit. However, thereafter, suddenly the depositors started withdrawing their deposits and therefore, liquidity of the said credit society was substantially affected adversely. The District Deputy Registrar suggested financial sanctions should be imposed on the said society and only limited amount could be returned to the depositors.

7. The Joint Sub-Divisional Registrar vide his letter dated 5/4/2016 accepted that proposal. The further correspondence shows that the credit society was restricted from returning the deposits beyond a certain limit. Shri. Nikam therefore submitted that only because of such restriction the deposits of the depositors could not be returned and therefore no offence was committed. He therefore submitted that the custodial interrogation of the applicant was not necessary.

8. Shri. Kenjale appearing for all other applicants has adopted the stand taken by and submission advanced by Shri. Nikam. He submitted that the applicants in ABA No.676/2018 were mere Directors and they had no role to play in the offence. He further submitted that the applicants in ABA No.675/2018 namely Rajendra Gandhi and Bhagwan Shirke were the Chairman and Vice Chairman between the period 2011 to 2016 and thereafter from 2018 onwards. He submitted that the correspondence between District Deputy Registrar and Joint Sub-Divisional Registrar shows the liquidity of the credit society went

down after the year 2016 and therefore these two applicants cannot be held responsible for the same.

9. As against these submissions, Ld. APP Ms. Kaushik submitted a report dated 6/7/2019 forwarded by the Investigating Officer. A copy of the said report is taken on record. Based on said report, Ms. Kaushik submitted that it was not only because of the withdrawal of the large amount of deposits that the credit society was facing financial crunch but society had suffered mainly because of malafide sanctioning and distribution of loans. She pointed out that the loans were sanctioned in the names of friends and relatives of the then Chairman of the society Applicant Rajendra Gandhi.

10. The report shows that one Ravindra Shah was given loan to the tune of Rs.6 Crores on 31/3/2015. This Ravindra Shah was brother of Rajendra Gandhi's co-brother. For that loan of Rs.6 Crores the applicant Rajendra Gandhi and Sanjay Gandhi stood guarantors. That loan was not repaid. Further loan of Rs.30 Lakhs

was distributed in the name of one Vilas Madne who is described as applicant Rajendra Gandhi's driver. That loan was also not repaid. For that loan, applicant Rajendra Gandhi's son stood as guarantor. The applicant Bhagwan Shirke's wife Meena Shirke was granted loan of Rs.5 Lakhs which was also not repaid. Applicant Mahesh Vadgavi's wife was granted loan of Rs.5 Lakhs that has also remained unpaid. It is also mentioned in the report that the applicant Sanjay Gandhi was Chairman of one Adinath Nagari Sahakari Path Sanstha, Koregaon. That credit society had suffered financial crunch because of misappropriation committed allegedly by the applicant Sanjay Gandhi. Even that credit society was merged in the Divya Datta Digamber Nagari Sahakari Path Sanstha. Hence, it is more than clear that all the applicants who were on the Board of Directors were party to sanction and distribution of loans to the friends and relatives of the members on the Board of Directors. The amount distributed was substantial and that has added to the financial difficulties faced by the credit society resulting in non payment of the deposits and interest of the depositors. Thus, because of the direct acts of these applicants, the depositors of the society have suffered financial loss. These acts of the accused fall within the ambit of sections under I.P.C. applied in this case as well as under MPID Act.

11. However, as fas as applicant Vasant Shinde is concerned, he was Chief Executive Officer and therefore he was not a party to the decision of sanctioning and distribution of loans. He had to obey the directions of the Board of Directors. Therefore, at this stage, protection of anticipatory bail can be extended only to him. However, he will have to co-operate with the investigation and he will have to disclose all the information which he possesses in respect of these transactions. In this view of the matter, following order is passed.

ORDER

(i) The ABA Nos.675/2018 and 676/2018 are rejected.

(ii) In the event of his arrest in connection with C.R. No.369/2017 registered with Koregaon Police Station, District Satara, the Applicant Vasant Shinde in A.B.A. No.76/2018 is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(iii) The Applicant Vasant Shinde shall attend the concerned Police Station from 22/7/2019 to 30/7/2019 everyday between 12.00 p.m. to 5.00 p.m. and shall co-operate with the investigation.

(iv) If according to Investigating Officer, applicant Vasant Shinde does not co-operate with the investigation, the State of Maharashtra through the Investigating Officer is at liberty to make an application for cancellation of his anticipatory bail.

(v) With the aforesaid observations, the applications are disposed of.

(vi) At this stage, Shri. Kenjale, Ld. Counsel for the applicants in ABA Nos.675/2018 and 676/2018 prays for stay of this order.

Considering the magnitude of the offence and necessity of custodial interrogation, the prayer is rejected.

Shri. Kenjale submitted that all the applicants in ABA Nos.675/2018 and 676/2018 have deposited Rs.1 Lakh each in this Court.

This amount is directed to be refunded to the respective applicants.

(vii) Intervention applications are also disposed of.

(SARANG V. KOTWAL, J.)