IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1024 OF 2019

Prasad Prakash Kedari ...Applicant
Vs.
State of Maharashtra ...Respondent

- Mr. A.P. Mundargi,Sr. Advocate alongwith Mr. Rohan N. Hogle I/b Mr. Satyam H. Nimbalkar, Advocate for the Applicant.
- Ms. S.S. Kaushik, APP for the State.
- Ms. S.A. Patil, WAPI, EOW, Crime Branch, Pune, City.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. 145/17 registered at Vishrambaug Police Station, Pune for the offences punishable under Sections 406,409,420,465,468,471 read with Section 34 of the IPC.

2. The FIR is lodged by one Rajesh Ugale on 9th March 2017. He has stated that he came across an advertisement given by M/s Kalyani Nagari Sahakari Patsanstha, which was a co-operative credit society. (Hereinafter referred to as 'the society'). The society had promised to give profits on the investments. The first informant initially invested with the society in the year 2004. After

some time he withdrew his investment because he wanted to purchase a flat. Thereafter, in the year 2014, he had surplus amount of Rupees Four Lakhs with him. Therefore, he again went to the office of the society. There he met the manager Tejas Kedari. Tejas Kedari represented that the society was in a good financial condition. At that time the chairman Ajay Bhute was also present. He represented that on higher investment the investor would get expensive gifts. Based on their representation, the informant invested Rupees Four Lakhs in his name and in his wife's name in the society. Initially for first fifteen to sixteen months, he got regular interest, but subsequently he stopped getting interest. The investment matured on 5th June 2016. When he approached the society, he was not returned his investment. It is his case in the FIR that the present applicant was a founder director of the society. He got a cheque for repayment of his investment. However, that cheque was dishonoured. The informant pursued this matter with the registrar and thereafter filed this FIR. His main allegation is that the office bearers of the society were aware of the bad financial condition of the society since the year 2010 and yet they induced the informant to invest in the society and therefore, all these accused had committed this offence.

3. Heard, Mr. Mundargi, Senior Counsel for the applicant as well as Ms. S.S.Kaushik, learned APP for the State.

4. Learned counsel for the applicant submitted that the applicant had resigned from the society in the year 2004 itself. The allegations pertain to the investments made in the year 2014 onwards. Therefore, the present applicant has no concern with the alleged offence. He further submitted that the chairman Ajay Bhute was brother-in-law of the applicant. After the investor started harassing the family, present applicant gave his personal cheque to satisfy the outstanding amount of the first informant. He submitted that the cheque was not issued on behalf of the society, but it was issued from his personal account just to stop the harassment of the family. He further submitted that one case under section 138 of the Negotiable Instrument Act is pending against the present applicant, but he has not committed any offence as alleged in the FIR in respect of the bad condition of the society.

5. Learned APP pointed out that the informant has described the role of the present applicant and there are similar statements of the other investors who have also blamed the present applicant.

6. I have considered all these submissions. I have perused the statements of other investors as well. There are statements which are of similar nature as of the first informant. The investigating agency has not disputed the fact that in the year 2014, the present applicant was not on board of directors of the said society. Therefore, at this stage, the statement made by the learned senior counsel for the applicant that the applicant had resigned from the directorship in the year 2004 has remained undisputed. Though there are allegations that the financial status of the society was becoming weak from the year 2010 onwards, there is nothing on record to show that the present applicant was personally liable for such bad financial condition of the said society. The FIR itself does not shows that the present applicant was instrumental in making any false representation compelling the informant and other investors to invest in the society after the society had suffered financially. Thought the applicant had issued the cheque to satisfy

the claim of the first informant, the investigation carried out so far has not revealed any material to show how the present applicant was personally liable to make such payment.

7. In this view of the matter, at this stage, there is nothing on record that the investigating agency has to show that the present applicant has committed any offence in respect of the misappropriation of any amount of the investors of the said society.

8. In this view of the matter, custodial interrogation of the applicant is not necessary. Hence, the following order:-

ORDER

(I) In the event of his arrest in connection with C.R. No. 145/19 registered at Vishrambaug Police Station, Pune, the Applicant 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.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)