IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.546 OF 2020

. Umakant s/o Shankar Aapet = **APPLICANT**

VERSUS

The State of Maharashtra = **RESPONDENT/S**

Mr.VD Sapkal, Sr. Advocate i/b SR Sapkal,Advocate for Applicant;

Mr.SY Mahajan,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 16th December, 2020.

PER COURT:-

1) Present applicant is original accused No.11, who is apprehending his arrest in connection with CR No.157/2018, lodged at the instance of one Manik Phutane r/o Jamal Nagar, Ausa, District Latur, with Ausa Police Station, District Latur, for the offences punishable under Section 420, 406, 409 read with 34 of IPC and under Sections 3 and 4 of the MPID Act.

2) Heard learned Sr. Advocate Shri VD Sapkal for the applicant and learned APP Shri SY Mahajan for Respondent-State.

3) It has been vehemently submitted on behalf of the applicant that the applicant is stated to be a Director of one Multi-State Credit

Co-operative Society, by namely Shubh Kalyan Multi-State Credit Co-operative Society, having its branch at Ausa. However, the applicant has, in fact, resigned from his Directorship of the said society in the year 2014 itself and his resignation has been accepted in the meeting of the Board of Directors of the Society convened on 10.5.2014. The applicant and his wife had submitted their application for cancellation of membership and also tendered their resignation from the Directorship. In the FIR, the informant says that he had deposited certain amount in his Account No. PB10305/41 on 17.11.2014 and the amount was invested in the society under its alleged attractive Scheme. By the end of 3.4.2017, he had credited the amount of Rs.1,50,526/- to his account and then he had invested the amount of Rs.10,000/- each in eight Fixed Deposits for a period of 13 months. Those amounts were due in 2017, however, not returned in spite of his repeated demands and thereafter the branch was closed in April 2016 without giving any intimation to the depositors. All these events have taken place after the applicant had resigned from the Directorship as well as membership of the said society and, therefore, he is not responsible in any way for the offence. Further, in other Crimes, registered at different police stations, involving the said society, he has been granted anticipatory bail, however, in this case itself it was rejected. Therefore, he has approached this Court for anticipatory bail. His physical custody is not required and, therefore, he is entitled for anticipatory bail.

4) Per contra, learned APP strongly opposed the application on the ground that huge amount was invested by various persons in the branches of the said society. Accused No.1 is the main culprit. The hard-earned money of the depositors has been duped and, therefore, recovery of the amount is necessary.

5) At the outset, taking into consideration the contents of the FIR, it is to be noted that the deposits have been made by the informant after 17.11.2014. The investigation in the crime appears to be over and charge sheet has been filed. Therefore, physical custody of the present applicant appears to be not required for the purpose of investigation. Further, the documents, which are on record, would make it clear that though the document is stated to be given by Chairman & Managing Director of the said society, showing present applicant as Vice-Chairman; yet it does not bear date. Further, the copies of the Board of Directors' meetings proceeding of the years 2014-2015 have been produced which show that an application was filed by the present applicant as well as his wife for cancellation of their membership as well as Directorship of the society. In the meeting dated 10.5.2014, the said subject was taken and it was unanimously allowed. Thereafter in the General Body meeting also, the

said subject was taken and the membership as well as the Directorship of the applicant has been cancelled. When the investment by the informant in the society was made after the present applicant had resigned, then how the offence can be said to be attracted against him is a question. Physical custody of the present applicant is not required and, therefore, the interim protection granted earlier by this court by order dated 7.7.2020 deserves to be confirmed and made absolute. Hence, following order, -

ORDER

i. The Application stands allowed;

ii. The order passed by this Court on 7.7.2020, thereby granting interim protection to the applicant, is hereby confirmed and made absolute.

iii. If the applicant is not arrested formally, in the event of his arrest in connection with CR No.157/2018, registered with Ausa Police Station, District Latur, for the offences punishable under Section 420, 406, 409 read with 34 of IPC and under Sections 3 and 4 of the MPID Act, he be released on PR bond of Rs.75,000/- with one solvent surety in the like amount.

iv. The applicant shall not tamper

with the prosecution evidence in any manner; shall cooperate with the investigation and remain present before the IO as and when called till filing of charge sheet.

(SMT. VIBHA KANKANWADI,J.)

BDV