IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 109 OF 2021

Shantaram s/o Ashok Devtarse ... **Applicant**
Age 34 years, Occu: Business & Agri.
R/o Kanher Vasti, Sonai, Tq. Newasa,
District Ahmednagar

VERSUS

1. The State of Maharashtra, ... **Respondents**
Throgh Police Inspector
Sonai Police Station, Sonai,
District Newasa, Dist. Ahmednagar

2. The Superintendent of Police,
Ahmednagar, District Ahmednagar

Mr. S. J. Salunke h/for Mr. M. S. Taur, Advocate for the applicant,
Mrs V. S. Chaudhari, A.P.P. for the State.

CORAM	:	V. G. BISHT, J.
RESERVED ON	:	17th August, 2021.
PRONOUNCED ON	:	24th August, 2021.

ORDER:

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 16/2021 registered with Sonai Police Station, District Ahmednagar for the offences punishable under Sections 406, 409, 420, 34 of the Indian Penal Code, 1860 and under section 3 of the Maharashtra Protection of Interest of Depositors(in Financial Establishments) Act, 1999.

2. It is the case of the prosecution that at the instance and persuasion of the present applicant, the informant, his family members, relatives and friends in all invested Rs.6,81,28,983/- with Ujwal Agro Multistate Cooperative Society, Mauli Multistate Credit Cooperative Society and other societies during the period from 2017 to 2019. The present applicant and other accused had promised the informant and other investors that they will get the amount twice in a year and also other financial benefits. However, the amount was not repaid and rather they found themselves to be cheated.

3. Mr. S. J. Salunke, learned counsel for the applicant, submits that the present applicant is neither a Director nor member or in any capacity working on behalf of Ujwal Agro Multistate Cooperative Society or any other societies as alleged in the first information report. According to the learned counsel, the applicant himself has deposited total amount to the tune of Rs.35,70,000/- in Ujwal Agro Multistate Cooperative Society, Mauli Multistate Credit Cooperative Society under various schemes in the name of his brother, father, his wife, and in his own name relying on the sweet words of the Chairman and Directors of the said Societies. The learned counsel also submits that the applicant was also promised by the Chairman and Directors of the said Societies that he would get double amount after the prescribed period. Out of Rs.35,70,000/- an amount of Rs. 22,08,122/- is still remained to be recovered from those Societies. The applicant himself is a victim who has lost the said amount. The learned counsel then invited my

attention to various deposits made by the applicant and his family members and would submit that this is a fit case where the applicant should be given benefit of pre-arrest bail.

4. Mrs V. S. Chaudhari, learned A.P.P., on the other hand, would submit that the present applicant was working as an Agent of the societies in question and was handsomely rewarded by way of commission. It was the applicant who induced the informant and other investors and showed a rosy picture and thus not only he alongwith others committed criminal breach of trust but also cheated on the various investors. The learned counsel then invited my attention to the statements of witnesses and also the statement prepared of showing commissions received by the applicant. According to the learned A.P.P., the investigation is in progress and it may hamper the investigation, if pre arrest bail is granted in favour of the applicant.

5. What is relevant to note at the very outset is that the applicant's stand has been, since beginning, that he is not concerned with the said societies in any capacity or worked as a representative of those societies. Rather he himself is sufferer at the hands of the said Multistate societies. When the learned counsel for the applicant argues that the applicant and his family members have also invested in the said societies, I do not find force in the submission because various documents are filed on record which indeed show that the applicant and his family members have invested in Ujwal Agro Multistate Cooperative

Society and Mauli Multistate Credit Cooperative Society from time to time. What is surprising is that although the applicant claims himself to be a victim at the hands of those societies still no legal action was taken by him against those Multistate Societies.

6. As far as submission that the applicant was not associated with those societies in any manner is concerned, I do not find merit in the submission. There are statements of Nilesh Janardhan Kumbhar and Suresh Sitaram Ghangale recorded by the Investigating Officer during the course of investigation. Those statements clearly point out that the present applicant was working as an Agent of the said societies and he alongwith Anna Patil Darandale used to organize meetings on behalf of the said societies and also used to canvass the benefits of investment in those societies. Thus, what is apparent from these statements is that the present applicant indeed was working as an Agent of these societies and this material fact is suppressed by the applicant.

7. Then, I find substance in the submission of learned A.P.P. that the present applicant indeed had received commission from Mauli Multistate Cooperative Credit Society. Statements to that effect have been shown to me during the course of argument which clearly show the commission received by the present applicant. The Bank statements issued by State Bank of India, Sonai, Union Bank of India, Sonai and Bank of Maharashtra Sonai support the submission of the learned A.P.P.

8. It is also clear from the investigation papers that there is notification issued by the Home Department, Government of Maharashtra on 12th April, 2021 whereby all the properties of the said financial establishments and the properties in the name of its directors and their relatives, as per schedule, came to be attached under section 4 (1) and sections 5 and 8 of the Maharashtra Protection of Interest of Depositors(in Financial Establishments) Act, 1999. So also the Sub Divisional Officer, Nashik Division is appointed to be a Competent Authority to exercise control over the properties so attached of the said financial establishments and its directors.

9. Having regard to the above discussion and the fact that the criminal breach of trust in respect of cheating of colossal amount of Rs.6,81,28,983/- has been alleged and the investigation is still going on, it is not desirable to extend the benefit of pre-arrest bail in favour of the applicant. Consequently, I pass the following order:

O R D E R

i. The applicant stands rejected.

ii. Interim protection given by this Court on 23.03.2021 stands vacated.

(V. G. BISHT, J.)

JPC