

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.141 OF 2021
WITH APPLN/469/2021 IN ABA/141/2021**

1] SANTOSH SHIVAJIRAO SASANE
2] SUNITA W/O SANTOSH SASANE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Satyajeet S. Dixit
APP for Respondent/State: Mr. P.G. Borade
Advocate for Assist to APP : Mr. R.L. Kute

...

CORAM : MANGESH S. PATIL, J.

DATE : 01.03.2021

PER COURT :

This is an Application under Section 438 of the Code of Criminal Procedure as the applicants are apprehending their arrest in Crime No.30/2021 registered with Kopargaon Rural Police Station, Tq. Kopargaon, District Ahmednagar for the offence punishable under Section 420, 465, 467, 468, 504, 506 read with Section 34 of the Indian Penal Code.

2. The FIR has been lodged by the sister of the applicant No.1 to the effect that she along with her mother have been staying in Pune. They own land at their native Bhojde Tq. Kopargaon. Without there being any right or interest the applicants are stated to have borrowed crop loan from a Credit Cooperative Society in the name of the informant and her mother and even they have withdrawn several sums from their savings account with a District Central Co-operative Bank.

3. The learned advocate for the applicants submits that the informant and her mother being women residing in a different town were unable to cultivate their land in the native village. They had given authority letter to the applicant No.1 authorizing him to raise the crop loan and

operate that account. Similarly just to enable operation of the savings account with the District Central Co-operative Bank, the applicant No.1 has helped these women in withdrawing the sums by obtaining their signatures on the withdrawal slips.

4. The learned advocate would then point out that there is a delay in lodging the FIR. Though the alleged misappropriation is stated to have revealed to the informant and her mother in the month of August 2020, the FIR has been lodged belatedly with a concocted version in January 2021. He would point out that the mother has gifted her land to the informant under a registered Gift Deed. When the applicant No.1 raised objection for effecting mutation on that basis by filing an application with the concerned Talathi in the month of August 2020, as an after thought, just to give a counter blow to such objection that the present FIR has been lodged in the Month of January 2021. He would submit that the applicants are ready to co-operate the Investigating Officer and may be granted anticipatory bail.

5. The learned APP assisted by the learned advocate for the informant strongly opposes the Application. He submits that *prima facie* there is enough material to reveal that the applicants have indulged in forgery and have cheated the Bank and the Society and have also misappropriated money. Since the matter requires custodial interrogation of the applicants, the Application be rejected.

6. After having heard both the sides when this Court expressed its disinclination to grant anticipatory bail to the applicant No.1, his learned advocate, on instructions, seeks leave to withdraw the Application to his extent.

7. As far as the role sought to be attributed to the applicant No.2 is concerned, the FIR alleges that when the informant contacted the Officer of the District Central Cooperative Bank, the Officer had revealed that the applicants along with the third accused had withdrawn money from the savings account of the informant and her mother. Except this isolated and bald allegation there is absolutely no other allegation or material as far as

any role having been played by the applicant No.2.

8. Pertinently, for the reasons best known to the Investigating Officer, he has not recorded statement of the concerned Bank Official whose name appears in the FIR nor has he recorded statement of the employees of the Credit Society.

9. Considering the quality of allegations being levelled against the applicant No.2 and the lack of adequate material in the papers of the investigation revealing active role played by her in the alleged crime, she deserves to be granted anticipatory bail with the usual terms and condition.

10. The Application is partly allowed. In the event of arrest of the applicant No.2 in connection with Crime No.30/2021 registered with Kopargaon Rural Police Station, Tq. Kopargaon, District Ahmednagar for the offence punishable under Section 420, 465, 467, 468, 504, 506 read with Section 34 of the Indian Penal Code, she shall be released on bail on her executing personal recognizance for an amount of Rs.15,000/- (Fifteen Thousand only) and furnishing a solvent surety in the like amount subject to following conditions:

- a) She shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate him.
- b) She shall not tamper the evidence or influence the witnesses in any manner.

11. The Application to the extent of applicant No.1 is dismissed as withdrawn.

(MANGESH S. PATIL, J.)