IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

15 ANTICIPATORY BAIL APPLICATION NO.373 OF 2020

MAHENDRA ASHOK BHAMRE
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Sonwane M S
APP for Respondent State: Mr. A.V. Deshmukh

CORAM : PRAKASH D. NAIK, J.

DATE : 13th December, 2021

ORDER:

1. This is an application for anticipatory bail in Crime No. 234 of 2013, registered with Deopur Station, District Dhule for the offence under sections 420, 409, 201, 120B of the Indian Penal Code. The first information was registered on 25.12.2013.

2. Case of the prosecution is that the Administrator had lodged complaint against the Chairman and Directors of Shri Saiseva Nagari Cooperative Credit Society. The society was registered on 19.02.2002. The accused No.1 was Chairman and accused Nos. 2 to 12 were Directors of the Society. Accused No.13 was Secretary. All the documents of Society are in his possession. Deposits were invited from members. Accused had misappropriated the funds. The working of the society was closed in 2007. The members/depositors had complained to authorities for refund of money. Informant was appointed as Administrator by order dated 19.09.2011. When the

Administrator decided to take charge of the society, he found that the office of the society was not existing. The accused No.2 Suryakant Thakare, Ex-chairman gave statement to the Police that he had given record of the society to Auditor for Audit and would return the same within one month. Since the Chairman failed to return the record, search was conducted, however, no record was found. Huge amount of the financial institution has been suspected to be misappropriated.

3. Learned Advocate for the applicant submitted that after registration of the FIR, although he was available at his place, there were no attempts to arrest him. FIR was registered in 2013 and the charge sheet was filed in 2019. The applicant had preferred application for anticipatory bail before this Court which was disposed of by order dated 4th February, 2016 passed by the coordinate bench (Coram: N.W.Sambre, J.). The application was withdrawn. The order however does not refer to adverse observations. Thereafter several accused including Chairman of the Society have been granted anticipatory bail by this Court. Copies of the orders are annexed to this application. It is further submitted that there is no incriminating material against the applicant. Charge sheet has been filed against the arrested accused. Charge sheet is filed against the applicant under section 299 Cr.P.C. Custodial interrogation is not necessary. The offence is registered on the basis of inferences since the record could not be located. The allegations are vague. The offence relates to documentary evidence.

The Chairman of the Credit society had stated that documents were in possession of Auditor for audit purposes and that he would return the same within short span of time. It can not be inferred that the applicant had in any manner misappropriated the funds of the credit society. Auditor had conducted audit till 31st March, 2017. No adverse observations were made pointing any misappropriation of the amount. FIR was registered in 2013 and investigation is already completed. Custodial interrogation is not warranted.

4. Learned APP however submitted that there is misappropriation of funds of the credit society. The applicant was not available after registration of the FIR. Offence is of serious nature. Investors/depositors had approached authorities for refund of invested amount. Custodial interrogation is necessary.

5. On perusal of the FIR, it can be seen that the informant was appointed as Administrator of the Credit society. In pursuant to that he intended to take charge of the society, however, could not find the place of office of the society. He also could not find documents of the affairs of the society. He was informed by the Chairman that documents were handed over to auditor. It was inferred that the accused had misappropriated the funds of the society. The applicant is one of the Directors of the credit society. It is pertinent to note that Shivajirao Tikaram Bagual who is Chairman of the credit society is granted relief

under section 438 Cr.P.C. vide order dated 7th September, 2016. The accused Hemant Patil was granted pre-arrest bail by this Court vide order dated 9th June, 2016. Other accused Archana Bagul and Sharda Bagul were granted anticipatory bail by this Court vide order dated 30th November,2016. The Court has considered the fact that other accused were granted such relief. Jayprakash Vaasantrao was granted anticipatory bail by order dated 29.09.2016. Amit Chavan and Suresh Chhatre were granted anticipatory bail by order dated 24.01.2017. Thus, several persons including Chairman, Directors and Secetary of the Credit Society were granted relief under section 438 of Cr.P.C.

6. Previous application preferred by the applicant was inded withdrawn by order dated 4th February, 2016. The learned Judge who had passed the said order is not available at this Bench. Apart from that, the order do not record any adverse observation against the applicant. In pursuant to the said order several accused were granted anticipatory bail in this crime. In view of this, the application deserves to be allowed. Hence, I pass the following order :-

O R D E R

i. Anticipatory Bail Application No. 373 of 2020 is allowed;

ii. In the event of arrest of the applicant in Crime No.234/2013 registered with Deopur Police Station, District Dhule, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;

iii. The applicant shall attend the investigating officer on 20th 21st and 22nd December, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of the charge sheet.

iv. Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC