

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

901 ANTICIPATORY BAIL APPLICATION NO.428 OF 2021

ANMOL BHARATRAO ALZENDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Thombre S.S
APP for Respondent : Mr. G O Wattamwar

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CORAM : V.K. JADHAV, J.
Dated : September 22, 2021

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PER COURT :-

1. The applicant is seeking anticipatory bail in connection with crime no.0117 of 2018 registered with Majalgaon City Police Station, Tq. Majalgaon, District Beed for the offences punishable under sections 420, 406, 409, 467, 120 (B) , 34 of Indian Penal Code and u/s 3,4 of Maharashtra Protection of Interest of Depositors Act. His application with similar prayer came to be rejected by the Additional Sessions Judge, Majalgaon, District Beed vide order dated 16.1.2021 in criminal Bail application No.3 of 2021.

2. As per the allegations made in the FIR Parivartan Urban Multi-state Co-operative Society Limited, Majalgaon Tq. Majalgaon is the registered Society started its functioning

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at Majalgaon, District Beed in the year 2012. The said society had opened its branches at various places. Chairman, Directors and other officials of the Society have invited the deposits by offering high rate of interest to the depositors. In consequence thereof, large number of depositors have invested their hard earned money in the said society. On maturity of deposits, though depositors have approached the concerned branch of the society for their amount, they have not been paid their money. It has also been alleged that false and bogus loan proposals were prepared and huge amount has been misappropriated.

3. Learned counsel for the applicant submits that the applicant is serving as a passing officer in 'Samajik Parivartan Nagari Sahakari Patsanstha' and the applicant is having no concern with the 'Parivartan Urban Multi-state Co-operative Society. Co-accused Amit Sathe was also an employee of Samajik Parivartan Nagari Sahakari Patsanstha. Learned counsel submits that by order dated 20.12.2019 this court (Coram:R.G.Avachat, J.) has released the said co-accused Amit Sathe on pre-arrest bail. Learned counsel submits that allegations as against said Amit Sathe are identical and in view of the same, the applicant herein is also

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entitled for pre-arrest bail on the principle of parity. The earlier application filed by the applicant bearing ABA No.1129 of 2018 came to be disposed off as withdrawn by order dated 20.2.2019. However, after pre-arrest bail granted to co-accused Amit Sathe, the applicant has approached the trial court by filing criminal application no.3 of 2021 for pre-arrest bail on the principal of parity. However, by order dated 16.1.2021 the Additional Sessions Judge, Majalgaon has rejected the said application. Even though, the applicant has raised the ground of parity in his application before the trial court, however, trial court has not considered the same.

4. Learned APP has strongly resisted the application on the ground that case of co-accused Amit Sathe is totally different. Learned APP submits that co-accused Amit Sathe was serving as a Senior Clerk and prior to that he was serving as Pigmi Agent. His duty was limited to the extent of preparing pigmi vouchers, loan vouchers and sanctioning account vouchers. However, so far as present applicant is concerned, he being the passing officer, he had wide powers such as transfer of amount from one account to another account, opening of new bank account, etc. Learned APP submits that, the applicant being the son of the Chairman of

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the Society, with his active help, it was easy for the Chairman and other Directors to withdraw the amount. Prima facie, there is a case against the applicant/accused. His custodial interrogation is required. He may not be granted anticipatory bail. Principal of parity is not applied.

5. I have carefully gone through the order passed by this Court (Coram: R.G.Avachat, J.) in bail application No.294 of 2019 filed by co-accused Amit Sathe. In paragraph no.8 of the order, following observations have been made:-

“8 So far as regards applicant Amit Sathe is concerned, he was a Loan Passing Officer. He was employed with Samajik Parivartan Nagari Sahakari Patsanstha. He has no concern with the Parivartan Urban Multi-state Cooperative Society. The applicant being an employee, was bound to obey instructions of the Chairman and/or of the Board of Directors and his higher-ups. Learned APP would submit that, examination of his Bank accounts indicates nothing doubtful. The applicant too has been protected way back in March 2019.”

6. It appears that the role of the applicant being a passing officer is limited to the extent of his duty list. Though, the learned APP has vehemently submitted that said co-accused Amit Sathe was working as a Senior Clerk in the said society, however, in paragraph no.5 of the order passed in ABA no.294 of 2019 (Amit Sathe Vs. Sate) the counsel representing the said co-accused Amit Sathe has made submissions before the Court that the applicant was not a

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Director or decision making authority and, he was a loan sanctioning officer. It further appears from the submissions made on behalf of the State which were recorded in the said order that the learned APP has not refuted the same. Though, the learned APP has vehemently submitted that the applicant herein was assigned with some more duties, however, there is no evidence about the same. Thus, the applicant herein is entitled to be released on pre-arrest bail on principle of parity. There is no reason to deny anticipatory bail to the applicant when bail was granted to co-accused Amit Sathe on the similar set of allegations. Hence, following order.

ORDER

- i. Criminal application is hereby allowed.
- ii. In the event of the arrest of the applicant Anmol Bharatrao Alzende in connection with crime no.0117 of 2018 registered with Majalgaon City Police Station, Tq. Majalgaon, District Beed for the offences punishable under sections 420, 406, 409, 467, 120 (B) 34 of Indian Penal Code and u/s 3,4 of Maharashtra Protection of Interest of Depositors Act, he be released on bail on his executing a P.B. of Rs.25,000/- (Rs.Twenty Five Thousand) with one solvent surety of the like amount, on the following conditions :-

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- a] The applicant shall not tamper with the prosecution evidence in any manner.
 - b] The applicant shall attend the Economic Wing at District Beed on every Sunday between 8 am to 11 am till filing of the supplementary charge-sheet against him and also make himself available as and when required by the Investigating officer.
- iii. Application is accordingly disposed off.

(V.K. JADHAV, J.)

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