

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

ANTICIPATORY BAIL APPLICATION NO. 464 OF 2021

Kusum w/o Suresh Ughade, ... **Applicant**
Age 47 years, Occu: Agri
R/o Village Issarwadi, Tq. Paithan
District Aurangabad

VERSUS

The State of Maharashtra, ... **Respondent**
Through the Police Inspector,
Police Station, Bidkin Tq. Paithan
District Aurangabad.

Mr. Arun S. Shejwal, Advocate for the applicant,
Mr. V. S.Badakh, A.P.P. for the State.

WITH

ANTICIPATORY BAIL APPLICATION NO. 216 OF 2021

Datta @ Dattu s/o Suryabhan Kale ... **Applicant**
Age 35 years, Occu: Agri.
R/o Georai Barshi, Tq. Paithan,
District Aurangabad

VERSUS

1. The State of Maharashtra, ... **Respondents**
Through the Police Inspector,
Police Station, Bidkin, Tq. Paithan
District Aurangabad.
2. Bank of Maharashtra
Through Branch Manager, Branch Bidkin,
Tq. Paithan District Aurangabad

Mr. A. P. Sonpethkar, Advocate for the applicant,
Mr. V. S.Badakh, A.P.P. for the State.

WITH

ANTICIPATORY BAIL APPLICATION NO. 463 OF 2021

Suresh s/o Karbhari Ughade ... **Applicant**
Age 51 years, Occu: Agri
R/o Village Issarwadi, Tq. Paithan
District Aurangabad

VERSUS

The State of Maharashtra, ... Respondent
Through the Police Inspector,
Police Station, Bidkin
District Aurangabad.

ANTICIPATORY BAIL APPLICATION NO. 507 OF 2021

Suvarna w/o Balchand Misal ... Applicant
Age 31 years, Occu: Agri
R/o Village Mulani Wadgaon,
Tq. Paithan District Aurangabad

VERSUS

The State of Maharashtra, ... Respondent
Through the Police Inspector,
Police Station, Bidkin Tq. Paithan
District Aurangabad.

WITH

ANTICIPATORY BAIL APPLICATION NO. 508 OF 2021

Nandabai w/o Ashok Misal, ... Applicant
Age 52 years, Occu: Agri.
R/o Village Mulani Wadgaon, Tq. Paithan
District Aurangabad

VERSUS

The State of Maharashtra, ... Respondent
Through the Police Inspector,
Police Station, Bidkin
District Aurangabad.

WITH

ANTICIPATORY BAIL APPLICATION NO. 497 OF 2021

Sakharam Ashok Misal, ... Applicant
Age 32 years, Occu; Agri.
R/o Village Mulani Wadgaon, Tq. Paithan
District Aurangabad

VERSUS

The State of Maharashtra,
Through the Police Inspector,
Police Station, Bidkin
District Aurangabad.

... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 465 OF 2021

Savita w/o Dadasaheb Shirrvat
Age 27 years, Occu: Agri.
R/o H.No. 127, Survey No. 47,
Gajanan Nagar, Garkheda, Aurangabad
Tq. & District Aurangabad

... Applicant

VERSUS

The State of Maharashtra,
Through the Police Inspector,
Police Station, Bidkin
District Aurangabad.

... Respondent

Mr. Arun S. Shejwal, Advocate for the applicants,
Mr. V. S.Badakh, A.P.P. for the State.

CORAM : V. G. BISHT, J.
RESERVED ON : 22nd September, 2021
PRONOUNCED ON : 27th September, 2021

ORDER:

1. These are applications under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.012/2021 registered with Bidkin Police Station, Tq. Paithan, District Aurangabad for the offences punishable under Sections 415, 420, 463, 465, 468, 469, 470, 471, 34 of the Indian Penal Code, 1860.

2. It is the case of prosecution that informant is a Branch Manager of Bank of Maharashtra, Branch Bidkin, District Aurangabad. Earlier Branch Manager namely Dhirajkumar had disbursed crop loan to 71 account holders during the period from 26.06.2021 to 08.08.2020 as per the Government resolution. Present applicants are the account holders and borrowers.

3. Prosecution alleges that the said borrowers alongwith others submitted 7/12 extract, Form No.8, other title documents and affidavits alongwith loan applications. It is alleged that on 11.08.2020, when the informant verified the said documents, he noticed various discrepancies in the documents submitted by the applicants and others. He came to conclusion that applicants and others, on the basis of forged documents, committed cheating and thereby misappropriated the amount of the said bank to the tune of Rs.1,09,71,000/-. The informant accordingly lodged the report.

4. Mr. Arun S. Shejwal, learned counsel for the applicant in Anticipatory Bail Application No. 464/2021, submits that a bare reading of the first information report would show that earlier branch manager had disbursed crop loan without adopting due procedure and verification of documents. The applicant in order to show her bonafides, has deposited an amount of Rs.67,000/-. Almost all the documentary evidence are in possession of the investigating officer. In such circumstance, no recovery or discovery is remained. In the facts and

circumstance of the case, there is no question of custodial interrogation and therefore, the present application deserves to be allowed.

5. Learned counsel for the applicants, in remaining anticipatory bail applications, have adopted the same line of argument.

6. Mr. V. S. Badakh, learned A.P.P., invited my attention to the investigation papers and more particularly the say, resisting the applications, filed by the the investigating officer. Learned A.P.P. also invited my attention to paragraph 15 of the say of the investigating officer wherein a chart is given showing in what manner these applicants committed the offence of cheating. Although charge sheet is filed but various aspects are yet to be looked into. There is no merit in the applications and therefore, the same are liable to be rejected.

7. First of all it may not be out of place to mention here that before sanctioning the crop loan, it was the duty of the earlier branch manager namely Dhirajkumar to satisfy himself in respect of truthfulness or correctness of those documents which were submitted by these applicants and others in order to avail crop loan facility. However, it seems that there was negligence on his part. Be that as it may, the fact remains that the applicants cannot take advantage of negligence of earlier branch manager as it was their responsibility as well to present true and correct documents in support of their claim.

8. The say of the investigating officer, more particularly Tabular form given at paragraph No.15, shows the amount of loan availed by these applicants. Investigation papers also show correct 7/12 extracts in respect of all these applicants and forged one placed on record by these applicants in place of correct 7/12 extracts. Prima facie there is substance in the submission of learned A.P.P. that true 7/12 extracts were not filed on record at the time of making of application for availing loan facility. It is also to be noted that the applicants availed loan facility in the range of Rs.1,45,000/- to Rs.1,60,000/-.

9. During the course of argument, learned counsel for the applicants have submitted that all the applicants, except applicant in Anticipatory Bail Application No. 463/2021, have deposited amount of Rs.67,000/- towards part payment of the loan amount which is not disputed by learned A.P.P. It is also not disputed that investigation is completed and charge sheet has been filed. Whole case of prosecution is based on documentary evidence. There is nothing to be recovered. The applicants are agriculturists and having agricultural lands. Thus, there is no possibility of their feeling from justice. In this situation, I do not find necessity of custodial interrogation.

10. In view of above, I am inclined to allow the applications. Hence, the following orders.

O R D E R

- i. The applications are allowed.

- ii. Interim relief granted by this Court in Anticipatory Bail Application Nos. 216/2021 on 03.03.2021 and on 29.06.2021 in Anticipatory Bail Application Nos.464/2021, 597/2021, 508/2021, 497/2021 and 465/2021 is made absolute and is confirmed.
 - iii. In the event of arrest of the applicant in Anticipatory Bail Application No. 463/2021 in connection with Crime No.012/2021 registered with Bidkin Police Station, Tq. Paithan, District Aurangabad for the offences punishable under Sections 415, 420, 463, 465, 468, 469, 470, 471, 34 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.15,000/- [Rs. Fifteen thousand only], with one or two solvent sureties in the like amount.
 - iv. The applicant shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - v. The applicant shall not tamper with prosecution evidence in any manner.
11. Applications stand disposed of accordingly.

(V. G. BISHT, J.)

JPC