AIN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 598 OF 2021

Avinath Ramanlal Doshi

.. APPLICANTS

Versus

The State of Maharashtra

...RESPONDENT.

...

Mr. Abhijit S. More, Advocate for the applicants
Mr. V.S. Badakh, APP for the respondent.

CORAM : V.G. BISHT, J.

RESERVED ON : 2nd September,2021.
PRONOUNCED ON : 9th September, 2021.

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.225 of 2021, registered with Police Station, Karjat, Dist. Ahmednagar Taluka, for the offences punishable under Sections 406, 409, 420 r/w. 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999.

2] The prosecution case, in short, is that the applicant is Ex-Chairman of the Parshwanath Gramin Bigar Sheti Patsanstha, ("the society" for short) established in 2006. It is a credit cooperative society. Informant was the Director of the said Credit Cooperative Society.

Informant has invested substantial amount in Fixed Deposits of the society from time to time. Initially, investment was made in the year 2006-07 and deposits were renewed from year to year upto 2016-2017. The society's accounts were audited and thereafter, the auditor lodged FIR against the Secretary of the society and its body for alleged misappropriation of society's funds. An enquiry under Section 88 of the Maharashtra Cooperative Soceities Act was held against the Board Members of the society including informant. It is also relevant to note here that an administrator has been appointed on the society in the month of March, 2021. Ultimately, complaint came to be filed on 17th April, 2021.

3] Mr. More, learned counsel for the applicant, at the very outset, submits that the co-accused who were Directors of the society are already released on bail by the learned trial court. It is also pertinent to note that the Special Auditor has already lodged an FIR (Exhibit D) against employees of the society for committing fraud to the tune of Rs.4,27,68,705/- . Similarly, according to learned counsel, the applicant has also lodged FIR (Exhibit E) with Karjat, police station against the Secretary of the society and other office bearers under Sections 420,405,406, 408 and 409 of IPC, for committing fraud against the society, inasmuch as, he and his family members have also invested huge amount in terms of Fixed Deposits in the said society and that amount comes to near about Rs. 2 Crores.

4] According to learned counsel, the proceeding under Section 88 of the Maharashtra Cooperative Societies Act against the applicant and other office bears of the society has been already concluded and pursuant to it, a charge has been created upon the immovable property of the applicant and other office bearers of the society.

5] The learned counsel for applicant lastly submitted that the informant himself was the Director of the society and, therefore, he could not have made allegations in respect of the decisions taken by the Board of Directors. Moreover, there is no prima facie material to show that the informant was induced by the applicant in any manner to deposit the amount. It is because of pandemic situation that there is no recovery of loan amounts from the borrowers and, therefore, the society was unable to repay the deposits of depositors. No criminal antecedents are brought on record. The case being of documentary nature, there is no necessity of custodial interrogation and hence, the application deserves to be allowed, urged learned counsel for applicant.

6] Mr. Badakh, learned APP, on the other hand opposed the submissions by contending that huge amounts are invested by the informant and others and the society has failed to return the deposits after due date of maturity. The learned APP invited my attention to the additional affidavit filed by the informant and reiterated the same submissions. It is also alleged that the applicant is a history-sheeter and in past, has committed various frauds in the society; and if released on bail, he may commit the similar crime again.

7] I have carefully gone through the FIR and as also the investigation papers. There is no dispute to the fact that the informant was himself a member of the Board of Directors of the society. The applicant was also a Director of the society since before 2015 and even thereafter, the informant invested in the Fixed Deposits of the society. For the first time in 2006-07 and on his own showing was, repaid the fixed deposit amount till 2010 with interest @ 12% p.a. Lateron, the informant renewed his deposits from year to year upto 2016. Prima facie, he himself being a member of the Board of Director and that no inducement is apparently shown and in absence of any material to that effect,it can not be said that indeed, the informant was lured or induced to renew the deposits made by him. It is also not to be missed the fact here is that the applicant has also invested huge amount to tune of Rs. 2 Crores and he is also an aggrieved person, inasmuch as, FIR (Exhibit E) is lodged by him against t he office bearers of the society.

8] In the light of above fact that the informant himself was a member of the Board of Directors of the society, in my opinion, he could not have alleged that the applicant had induced him to invest in the society. There is also no dispute to the fact that all other Directors have been granted bail, except the applicant. I am also not unmindful of the fact that the society is now being administered by an Administrator. Therefore, the applicant has no direct or indirect control over the affairs and/or books of accounts and documents of the society. Everything is in the custody of either the society or the Investigation Officer. This being a clear picture, I am of the considered opinion that the present case does not warrant custodial interrogation. As far as the apprehension of the informant that the applicant in past had committed fraud on the society or for that matter,he may commit similar offence, if given the benefit of pre-arrest bail is concerned, same is not substantiated by any concrete material. There is no past conviction order produced on record as far as his anticipated indulgence in the similar offence after being released on bail is concerned. Same can be taken care of by imposing stringent conditions. Even otherwise, he is no more concerned with the society, inasmuch as, an Administrator has already been appointed.

9] For all the aforesaid reasons, I am inclined to allow the application. The applicant has made out a prima facie case for consideration. Hence, the following order :-

: O R D E R :

[I] Application is allowed.

[II] The interim relief granted by this court on 5.7.2021 is confirmed and is made absolute. In addition to the conditions so imposed vide the said order, it is further directed that he shall not tamper with the prosecution evidence and further, he shall not indulge in any criminal activity.

10] The application stands disposed of in aforesaid terms.

[V.G. BISHT]
JUDGE.

grt/-