IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 638 OF 2021

1] Abasaheb s/o. Vasantrao Jadhav
Age 46 years, Occ. Agril.

2] Pramod s/o. Bhaurao Pawar,
Age 50 years, Occ. Agri.

3] Vijay s/o. Baburao Kale
Age 46 years, Occ. Agri.

4] Nivrutti s/o. Macchindra Mote,
Age 47 years, Occ. Agri.

All r/o. Wadala Bahiroba, Tq. Newasa
Dist. Ahmednagar.

.. APPLICANTS

VERSUS

The State of Maharashtra

.. RESPONDENTS.

WITH **ANTICIPATORY BAIL APPLICATION NO. 641 of 2021**

1] Abasaheb s/o. Vasantrao Jadhav
Age 46 years, Occ. Agril.

2] Muktabai w/o. Nivrutti Mote,
Age 45 years, Occ. Agril.

Both r/o. Wadala Behiroba, Tq. Newasa
Dist. Ahmednagar..

.. APPLICANTS.

VERSUS

The State of Maharashtra. .. RESPONDENT.

Mr. R.R. Karpe, Advocate for the applicants.
Mrs. V.S. Chaudhari, APP for respondent.

CORAM : V.G. BISHT, J.

RESERVED ON : 22nd September, 2021.
PRONOUNCED ON 23rd September, 2021.

PER COURT:

1] These are applications under Section 438 of Cr.P.C. preferred by the applicants seeking grant of pre-arrest bail.

2] The applicants in Application for Anticipatory Bail No. 638 of 2021 are apprehending arrest in connection with Crime No. 0010 of 2021, registered with Police Station, Shani Shingnapur, for the offences punishable under Sections 402, 406, 408, 409, 417, 418, 419, 420, 421, 422, 423, 424, 426, 427, 465, 466, 468, 471, 474, 477, 477(A), 120B, 107, 108, 109, 110, 111, 504, 506 , 34 of IPC and under Sections 3,4,5,6,7,8, 13 of MPID Act whereas, applicants in Anticipatory bail application No. 641 of 2021 are apprehending arrest in connection with 009/2021, registered with same police Station, under the very same sections.

3] It is the case of prosecution that applicants in both the anticipatory bail applications are the Directors of Bhairavnath Multi State Cooperative Society Ltd. Wadala Bahiroba, Taluka Newasa (hereinafter referred to as "Credit Society"). The applicants alongwith others are responsible for the day to day affairs of the said credit society. At the instance of the applicants and others, the informant in Anticipatory Bail Application No. 638 of 2021, deposited Rs. 50,000/- in fixed deposit on 3.4.2017. Rs. 1,46,721/- were payable to the informant on 3.4.2020. Similarly, the informant in Anticipatory Bail Application No. 641 of 2021 deposited Rs. 60,000/- in Fixed Deposit on 5.5.2016. An amount of Rs. 74180/- was payable to him on 1.3.2018. In both the cases after the maturity period was over, the informants demanded the said amount from the applicants but they avoided to give the maturity amount. Even after furnishing original FDR, the applicants herein did not pay the amount. Hence, the informants filed FIR.

4] Mr. Karpe, learned counsel for the applicants, submits that taking into consideration the allegations made in the FIR no offence can be said to have been made out under the relevant provisions of law. According to learned counsel, the audit of the credit society has been duly carried out and the audit report nowhere discloses any misappropriation at the hands of the office bearers of the said credit society including the applicants. On the contrary, the audit report reflects mismanagement of the said credit society and accordingly, action has been commenced against the Board of Directors (Managing Committee members). The learned counsel lastly submits that since the case is based on documentary evidence, custodial interrogation of the applicants is not at all necessary.

5] Mrs. Chaudhari, learned APP on the other hand, vehemently opposed the submissions by pointing out the audit report and would submit that there is clear-cut finding of misappropriation of the investors' amount at the hands of the Board of Directors. Moreover, there are statements of witnesses in respect of various depositors. The investigation is in progress and, therefore, the applications do not deserve consideration.

6] I have carefully gone through the investigation papers. There are statements of witnesses showing amount invested in the said credit society by the informants and others. I have also gone through the audit report and I find substance in the submission of the learned counsel for the applicants that there is no specific and clear finding of misappropriation of funds. In fact, the finding of the auditor is of mismanagement of the affairs of the society at the hands of Board of Directors for which necessary action is being taken against them.

7] Incidentally, I may point out that this court had an occasion to decide similar matters bearing Anticipatory Bail Application Nos. 902 of 2021 and 983 of 2021 in respect of the same credit society and the said audit report, which is now part of the present applications, was also part of the earlier anticipatory bail applications referred to above and in the said cases, this court had granted anticipatory bail to the applicants therein on the same grounds which are now specified in the present order.

8] Even otherwise, the case of prosecution is based on documentary evidence and I find that there is no such material on record to even slightly indicate the misappropriation of the amounts of investors at the hands of the applicants herein. I, therefore, find merit in the submission advanced by the learned counsel for the applicants that custodial interrogation of the applicants is not at all necessary.

9] In view of the above, I am inclined to allow the applications.

10] The applications stand allowed. The interim relief granted vide orders dated

: O R D E R :

[I] The interim order passed by this Court dated 29.6.2021 in both the anticipatory bail applications, stands confirmed and made absolute.

[II] The applications stand disposed of accordingly.

[V.G. BISHT]
JUDGE.

grt/-