

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

ANTICIPATORY BAIL APPLICATION NO. 902 OF 2021

1. Abasaheb s/o Vasantao Jadhav,
Age : 46 years, Occu. Agril.,
2. Pramod s/o Bhaurao Pawar,
Age : 50 years, Occu. Agril.,
3. Vijay s/o Baburao Kale,
Age : 46 years, Occu. Agril.,

Both R/o. Wadala Bahiroba, Tq. Newasa,
Dist. Ahmednagar.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....
Mr. Rahul R. Karpe, Advocate for the applicants
Mr. N. T. Bhagat, APP for respondent / State
.....

CORAM : V. G. BISHT, J.

RESERVED ON : 01st September, 2021
PRONOUNCED ON : 07th September, 2021

PER COURT : -

1. This is an application 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. 0045 of 2020, registered with Newasa Police Station, District Ahmednagar, for the offences punishable under Section 3 of the Maharashtra Protection of Interest of

the Depositors (In Financial Establishments) Act, 1999 and under Sections 420, 406, 409 r/w 34 of the Indian Penal Code.

2. It is the case of prosecution that applicant no. 1 is the Manager whereas, applicant nos. 2 and 3 are the Directors of the Bhairavnath Multi State Cooperative Credit Society Ltd., Wadala Bahiroba, Tq. Newasa, Dist. Ahmednagar (hereinafter referred to as “Credit Society”). The applicants along with others are responsible for the day-to-day affairs of the said Credit Society. At the instance of the applicants and others, the informant and his family members deposited Rs. 12,50,000/- in the fixed deposit for a period of 31 days with the said Credit Society. On maturity i.e. on 01.07.2019, when informant demanded the said amount, the applicants and others avoided to make the payments. Accordingly, the complaint came to be lodged.

3. Mr. Rahul R. Karpe, learned Counsel for the applicants, submits that taking into account the allegations made in the FIR, no offence can be said to have been made out under the relevant provisions of law. Moreover, audit in relation to the said society has also been carried out and it nowhere indicates any misappropriation at the instance of the office bearers of the said society including the

present applicants. Rather, the audit report reflects mismanagement of the said Credit Society and accordingly, action has been commenced against the Board of Directors (management committee members). Since the whole case is based on documentary evidence, there is no case of custodial interrogation.

4. Mr. N. T. Bhagat, learned APP, opposed the submissions by contending that the applicants in collusion with other office bearers misappropriated huge amounts of the said Credit Society. The learned APP also invited my attention to the investigation papers showing the various deposits made by the informant herein and then emphasized that having regard to the nature of allegations the custodial interrogation is necessary.

5. I have perused the investigation papers. There are various receipts which clearly show that the deposits are made by the informant and his family members from time to time. I have also gone through the audit report and I find substance in the submission of the learned Counsel for the applicant that there is no finding of misappropriation of funds and rather it is the case of mismanagement for which necessary action is being taken against the Board of Directors.

6. It needs to be kept in mind that the whole case is based on documentary evidence and no such material is produced on record to even slightly indicate the misappropriation of the amount of investors at the instance of the applicants and so *prima facie* the case of misappropriation is far from reality.

7. In view of above, I am inclined to allow the application. Hence, following order.

ORDER

- i. The application is allowed.
- ii. In the event of arrest of the applicants, namely, Abasaheb Vasantao Jadhav, Pramod Bhaurao Pawar and Vijay Baburao Kale in connection with Crime No. 0045 of 2020, registered with Newasa Police Station, District Ahmednagar, for the offences punishable under Sections 3 of the Maharashtra Protection of Interest of the Depositors (In Financial Establishments) Act, 1999 and u/s 420, 406, 409 r/w 34 of the Indian Penal Code, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.25,000/- [Rs. Twenty Five thousand] each, with one or two solvent sureties in the like amount.

- iii. The applicants shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.
- iv. The applicants shall not tamper with the prosecution evidence in any manner.

[V. G. BISHT]
JUDGE