

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

ANTICIPATORY BAIL APPLICATION NO. 983 OF 2021

Kailas Tukaram Gaikwad ... **Applicant**
Age 44 years, Occu: Agriculturist
R/o Gaikwad Vasti, Chanda, Tq. Newasa,
Dist. Ahmednagar.

VERSUS

The State of Maharashtra, ... **Respondent**
Through the Police Inspector/Investigating
Officer in FIR/Crime No.729/2020,
Newasa Police Station. Tq. Newasa
District Ahmednagar

Mr. A. D. Ostwal, Advocate for the applicant
Mr. N. T. Bhagat, A.P.P. for the State.

WITH

ANTICIPATORY BAIL APPLICATION NO. 903 OF 2021

11 Nivrutti s/ Machhindra Mote ... **Applicants**
Age 42 years, Occu: Agriculturist

2. Vijay s/o Baburao Kale,
Age 46 years, Occu: Agriculturist

3. Pramod s/o Bhaurao Pawar
Age 50 years, Occu: Agriculturist

AllR/o Wadala Bahiroba
Tq. Newasa, District Ahmednagar

VERSUS

The State of Maharashtra, ... **Respondent**
Through the Police Station Officer
Newasa Police Station. Tq. Newasa
District Ahmednagar

Mr. R. R. Karpe, Advocate for the applicant
Mr. N. T. Bhagat, A.P.P. for the State.

CORAM : V. G. BISHT, J.
RESERVED ON : 9th September, 2021
PRONOUNCED ON : 16th 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. 729/2021 registered with Newasa Police Station, District Ahmednagar for the offences punishable under Sections 420, 120(B), 406, 34 of the Indian Penal Code, 1860 and under section 3 of the Maharashtra Protection of Interest of Depositors, Act.

2. It is the case of prosecution that accused Sunil @ Balasaheb Mote is Chairman of Bhairavnath Multistate Co-operative Pat Sanstha Ltd., Wadala Bahiroba, Tq. Newasa, District Ahmednagar (hereinafter referred to as the Credit Society). One Appasaheb Jadhav is Manager of the said Credit Society. They, alongwith others, are responsible for day-to-day affairs of the said Credit Society. At their instance, the informant and his family members deposited Rs.24 lakhs in fixed deposits for a period of one year with the said credit society. After the period of maturity, the informant approached the credit society but the said Manager avoided to make payments. Accordingly, the first information report came to be lodged.

3. Mr. A. D. Ostwal and Mr. R. R. Karpe, learned counsel for the respective applicants, submit that similar first information report

bearing Crime No.45/2020 is registered with Newasa Police Station, District Ahmednagar and in that case, this Court, vide order dated 7th September, 2021, has extended the benefit of pre-arrest bail in favour of Manager - Appasaheb Vasantrao Jadhav and other accused. The facts being similar, the present applications also deserve consideration.

4. Mr. N. T. Bhagat, learned A.P.P., on the other hand, submits that there is prima facie involvement of the applicants and invited my attention to the internal audit report which, according to him, clearly indicates complicity of the present applicants in the alleged offence.

5. Perused the papers of investigation. It appears that the present applicants are the Directors of the said Credit Society. I have gone through the order dated 7th September, 2021 passed by this court in Anticipatory Bail Application No.902/2021. There is no dispute that the facts are similar having same informant and the credit society. There are various receipts which clearly show that deposits are made by the informant and his family members from time to time.

6. I have also gone through the audit report pertaining to the said credit society. The conclusion of the said audit report is that the Managing Board of the said Credit Society has irresponsibly invested the fund of the society in unproductive assets instead of investing the same in a productive manner and thereby 73.30% deposits of the society are exhausted. It further concludes that the properties of the credit society were sold at loss to the concerned persons so as to

extend them personal benefits and thus possibility of some financial gain to the Board of Directors cannot be ruled out.

7. Apparently, the auditor has drawn inference of the possibility of the Board of Directors having gained economically by selling the properties of the Credit Society. It is also significant to note here that there is no prima facie direct finding of the auditor reflecting misappropriation of funds, rather it seems to be a case of mismanagement.

8. Apart from above, the whole case of prosecution is based on documentary evidence. Everything is in custody of the investigating machinery including the audit report. No prima facie material is forthcoming on record to suggest even remotely that huge misappropriation of the amount of investors at the instance of the applicants has been committed.

9. In view of above, I am inclined to allow the present applications. Hence following order.

O R D E R

- i. In the event of arrest of the applicants in connection with Crime No. 729/2021 registered with Newasa Police Station, District Ahmednagar for the offences punishable under Sections 420, 120(B), 406, 34 of the Indian Penal Code, 1860 and under section 3 of the Maharashtra Protection of Interest of

Depositors, Act, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.25,000/- [Rs. Twenty five thousand only] each, with one or two solvent sureties in the like amount.

- ii. The applicants shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - iii. The applicants shall not tamper with prosecution evidence in any manner.
10. Applications stand disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC