IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1087 OF 2020

1. Narendra s/o Champalal Jain,
Age : 53 years, Occu. Service as
Branch Manager with Mahaveer Nagari
Sahakari Patsanstha Maryadit,
Branch at Bazr Peth, Chopda,
R/o Plot No.56, Ganesh Colony,
Chopda, Taluka Chopda, Dist. Jalgaon

2. Pravin s/o Indarchand Jain,
Age : 45 years, Occu. Service as
Clerk with the Head Office of Mahaveer
Nagari Sahakari Patsanstha Maryadit,
Chopda, R/o Chopda, Taluka Chopda,
District Jalgaon **APPLICANTS**

VERSUS

1. The State of Maharashtra,
through the Officer Incharge,
Chopda City Police Station,
Chopda, Taluka Chopda, Dist. Jalgaon

2. The Superintendent of Police,
Jalgaon, District Jalgaon **RESPONDENTS**

AND

ANTICIPATORY BAIL APPLICATION NO.1088 OF 2020

Shobha w/o Suresh Sankla,
Age : 52 years, Occu. At present
Nil (the then Manager with the
Head Office of Mahaveer Nagari
Sahakari Patsanstha Maryadit,
Chopda, R/o "Sneh Sadan"
Ganesh Colony, Chopda, Taluka
Chopda, District Jalgaon **APPLICANT**

VERSUS

1. The State of Maharashtra,
   through the Officer Incharge,
   Chopda City Police Station,
   Chopda, Taluka Chopda, Dist. Jalgaon

2. The Superintendent of Police,
   Jalgaon, District Jalgaon **RESPONDENTS**

Mr. Rajendra S. Deshmukh, Senior Advocate, instructed by Mr. Devang R. Deshmukh, Advocate for the applicants in both the applications
Mr. S.W. Mundhe, A.P.P. for the respondents/State
Mr. Ajay G. Talhar, Advocate to assist the A.P.P. in both applications

----

CORAM : MANGESH S. PATIL, J.

DATE : 09.02.2021

PER COURT :

These are the applications seeking bail in the event of arrest of the applicants in connection with Crime No.131 of 2020, registered with Chopda City Police Station, District Jalgaon for the offences punishable under Sections 408, 409, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. The FIR has been lodged by the current incharge Manager of Mahaveer Nagari Sahakari Patsanstha Limited, main Branch Chopda ("Society", for short), which is a Credit Cooperative Society functioning under the Maharashtra Cooperative Societies Act. Stated in brief, the allegations in the FIR are to the effect that while the applicants Narendra and

Pravin were working as Branch Manager and Clerk, respectively in a branch of the Society, they indulged in misappropriation and forgery. A borrower namely Polsan Manjali had repaid an amount of Rs.1,08,832/- towards the loan borrowed by him from the Society. When it was incumbent on the part of these applicants to have issued receipts, they did not issue any receipt and misappropriated the money. It is also alleged that even when the loan was still not cleared in the accounts of the Society, they also issued a certificate stating that the loan was cleared.

3. Based on the investigation that has been carried out uptil now, it is now being alleged that applicants Pravin and Shobha indulged in forgery and misappropriation. When witness Vishal Borse applied for a loan from the Society to the tune of Rs.50,000/- only, they falsely inserted the name of applicant Pravin as a co-borrower and even inserted the demand for the loan to the tune of Rs.25,00,000/-. They also managed to get the loan sanctioned to the tune of Rs.22,20,000/- and after it was credited in the account of Vishal Borse, they obtained his signature on blank withdrawal slips and siphoned the money.

4. It is alleged that applicant Shobha was at the material time working as a Manager of the branch of the Society and applicant Pravin was working as Clerk therein. It is alleged that by misusing their powers while extending loan facility to several persons. They misappropriated gold and silver ornaments to the tune of Rs.23,93,000/- against which loans were

advanced. Same are the allegations against applicant Narendra in respect of several other borrowers of the Society. It is thus alleged that the applicants have indulged in rampant misappropriation.

5. The learned Senior Advocate for the applicants would submit that the allegations in the FIR are pertaining to a transaction of Polsan Manjali, which had taken place in the year 2011 whereas the FIR has been lodged after a period of nine years in the year 2020. He would submit that the Chairman and her husband who is an ex-Chairman of the Society themselves have indulged in rampant misdeeds and have misappropriated crores of rupees. A proceeding under Section 73 of the Maharashtra Cooperative Societies Act was initiated by the applicant Pravin and it is only as a counterblast, a concocted FIR has been lodged. There are no allegations in the FIR as far as incident with regard to Vishal Borse and misappropriation of gold and silver ornaments are concerned. The name of applicant Shobha is not appearing in the FIR. Even applicant Shobha has initiated a prosecution against the Chairman and others for that misappropriation committed by them. Mr. Polsan Manjali had never paid amount to the applicant Pravin. He was not even posted at the branch in which Mr. Polsan Manjali was having the loan account. The ex-Chairman Shantilal Bothra many a times pressurized managers to issue letters regarding redemption of mortgages in favour of various borrowers even when the loans were still outstanding. It is also argued that even when Mr. Polsan had not repaid the loan, Shantilal

Bothra had pressurized applicant Narendra to issue a letter of redemption. It is further argued that in fact Mr. Polsan had not at all obtained loan for himself but the money was obtained by Shantilal Bothra. He would further submit that the investigation would relate to recovery of documents, which are in the custody of the Society. Custodial interrogation of the applicants is not necessary and the applications may be allowed.

6. The learned Senior Advocate would further submit that applicant Shobha was also subsequently made to resign and is no longer in the employment of the Society and being a woman, she may be protected.

7. Lastly, the learned Senior Advocate would submit that the Chairman and Directors are so powerful that even they made applicant Narendra to swear the affidavit admitting the misdeeds.

8. The learned A.P.P., duly assisted by the learned Advocate for the original informant, opposes the applications. He submits that it is a matter of misappropriation of public money by the employees of the Society. The facts being alleged atleast to some extent have been specifically admitted by the applicants. The Statement of Vishal Borse has been recorded, who corroborates the prosecution version. Even when Mr. Polsan Manjali had not repaid the loan, letter of redemption ought not to have been issued. There is nothing to disbelieve the statement of Vithal Borse. The gold and silver ornaments have been misappropriated by removing from the lockers by

applicants Pravin and Shobha. Even applicant Narendra has indulged in similar misdeeds. Their custodial interrogation is necessary to recover money, which runs into lakhs of rupees. During the investigation, several other misdeeds are transpiring. It is transpired that applicant Narendra has also forged signature of goldsmith Sham Sonar on some loan proposals against gold/silver regarding purity, whose statement under Section 164 of the Code of Criminal Procedure has also been recorded , in which even applicant Shobha is stated to have taken active part. They would further submit that applicant Narendra has also sworn an affidavit admitting the misdeeds. Considering the rampant misappropriation in which the applicants have indulged, custodial interrogation of the applicants is necessary not only to complete the investigation but even to recover public money misappropriated by them.

9. It would be appropriate to bear in mind the observations of the Supreme Court in the case of ***Nimmagadda Prasad Vs. Central Bureau of Investigation; (2013) 7 SCC 466*** , which would be squarely applicable to the fact situation of the matter in hand. As can be seen, there are serious allegations about all the three applicants having indulged in rampant misappropriation. The allegations do not seem to be hollow or without any basis.

10. So far as the transaction in respect of Mr. Polsan Manjali is concerned, the allegations against applicant Pravin are about he having

received money from Mr. Polsan but failed to account for it. As regards applicant Narendra, it is alleged that even when the accounts of the Society were showing that the loan of Mr. Polsan was still outstanding, he had issued a letter regarding redemption.

11. As far as the misdeeds in respect of the loan applied for by witness Vishal Borse are concerned, his statement has been recorded under Section 164 of the Code of Criminal Procedure as well. He specifically states that he had applied for a loan of Rs.50,000/- but received a notice from the Society demanding Rs.31,31,216/- against the loan of Rs.22,20,000/-. He has specifically stated that he enquired with applicant Pravin regarding his request for loan, whereupon as per his instructions, an account was opened with the main branch. Pravin then took him to applicant Shobha, who happens to be the sister of applicant Pravin. He was made to sign on blank papers. His statement stands further corroborated by some staff members of the Society namely Deepak Maganlal Badgujar and Sandeep Dilip Baviskar.

12. The statement of auditor Mr. Ganesh Dilip Totla has also been recorded and even he states that the loan that was sanctioned in the name of Vishal Borse was disbursed even without there being any sanction from the Board of Directors. Vishal Borse was not even a member of the Society at the relevant time and the loan could not have been disbursed to him. The sanction letter also does not bear the signature of the Chairman. He also states that though some advances were paid towards the loan amount by

transferring the money from the loan account to savings account and while allowing the money to be withdrawn from the savings account, the vouchers do not contain signature of the borrower.

13. In another statement of the same auditor, he has stated as to how not a single bag of ornaments was traceable in the bazar peth branch in respect of the loans disbursed against gold and silver ornamenrs.

14. As far as role attributed to applicant Shobha is concerned, there is a statement of the Manager of the main Branch namely Rajendra Shantilal Jain, stating that on 21.03.2019, when it was a public holiday and the Society's branch was closed, she asked the peon Shrikant Rasiklal Jain to take applicant Pravin to the Society's branch and to open the locker. She also instructed cashier Mahendra Motilal Jain to accompany Pravin. Accordingly, the lockers were opened by applicant Pravin, who removed gold, kept back the keys and took it away. He further states that even there is a record captured in the CCTV about this episode. He further states that gold weighing 1439 grams is missing. His statement has also been recorded under Section 164 of the Cr. P.C. to the same effect.

15. Then there is a statement of one Bharat Rasiklal Jain, stating that applicant Narendra, who was authorized to sanction loan against gold, himself prepared several loan proposals in his hand in the name of fictitious persons. Conspicuously, he states that there were no signatures of Vishal

Borse stated to be the borrower in the vouchers under which the amount of Rs.5,90,000/- and Rs.2,50,000/- were withdrawn.

16. The statement of Sham Sonar, who is a goldsmith, has also been recorded. He denies his signatures on the gold deposit forms and states that are forged ones. The statement of even the Peon Shrikant Rasiklal Jain has been recorded under Section 164 of the Cr. P.C., who corroborates the fact of applicant Shobha having asked him to open the locker for applicant Pravin.

17. It is pertinent to note that even the copies of the withdrawal slips purporting to be drawn in favour of Vishal Borse do not bear his signatures. His loan proposal application clearly indicates that name of applicant Pravin has been inserted there subsequently.

18. Considering all the aforementioned facts and circumstances, it does appear that all the applicants have played active role and sometimes in collusion with each other and at times, independently, indulged in misappropriation while working as the employees of the Society.

19. Considering the gravity of the crime and the complexity of the matter to be investigated, custodial interrogation of all the three applicants - Narendra, Pravin and Shobha is highly imperative. Even while bearing in mind the principles in the case of ***Sushila Aggarwal Vs. State (NCT of Delhi) & Another; (2020) 5 SCC 1*** , they do not deserve anticipatory bail.

20. The applications are rejected.

21. The learned Senior Advocate for the applicants submits that they have already been protected by way of ad-interim relief and it may be extended by further four weeks to enable them to approach the Supreme Court.

22. Taking into account the seriousness of the crime, when it is a matter of misappropriation of public money, the applicants do not deserve any such latitude. The request is rejected.

23. The amount deposited by the applicants in Anticipatory Bail Application No.1087/2020 pursuant to the order of this Court dated 13.11.2020 shall be refunded them.

[MANGESH S. PATIL]
JUDGE

npj/ABA1087-1088-2020