

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

ANTICIPATORY BAIL APPLICATION NO. 1070 OF 2021

Arjun s/o Manoharrao Hoke ... **Applicant**
Age 53 years, Occu: Agri.
R/o Shahu Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beeds

VERSUS

The State of Maharashtra, ... **Respondent**
Through Incharge Police Inspector,
Majalgaon City Police Station, Majalgaon,
District Beed.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1072 OF 2021

Arjun s/o Manoharrao Hoke ... **Applicant**
Age 53 years, Occu: Agri.
R/o Shahu Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beeds

VERSUS

The State of Maharashtra, ... **Respondent**
Through Incharge Police Inspector,
Majalgaon Rural Police Station, Tq.
Majalgaon, District Beed.

Mr. V. D. Sapkal, Senior Advocate i/by Mr. Pratap B. Vikhe, Advocate for
the applicant,
Mr. V. S. Badakh, A.P.P. for the State.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th October, 2021

ORDER:

1. The applicant in both these applications is apprehending arrest in connection with C.R. No. 0297/2018 registered with Majalgaon

City Police Station, District Beed for the offences punishable under Sections 420, 406, 468, 471, 34 of the Indian Penal Code (for short "IPC") and C.R. No. 0422/2018 registered with Majalgaon Rural Police Station, Tq. Majalgaon, District Beed for the offences punishable under Sections 420, 406, 468, 471, 34 of the Indian Penal Code and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act.

2. The First Information Reports in both these cases were registered pursuant to the private complaints being filed by respective complainants seeking directions under section 156 (3) Criminal Procedure Code (for short "Cr.P.C"). Pursuant to orders of the concerned court directing investigation in accordance with section 156 (3) Cr.P.C., first information reports are registered.

3. According to the complainant in crime No. 297/2018, the accused were the Directors of Samajik Parivartan Nagari Sahakari Patsanstha (for short "the credit society"). Applicant is one of the Director. The complainant had deposited an amount of Rs.11 lakhs in the credit society on his behalf as well as on behalf of his family members. On maturity of the deposits, the complainant visited the office of the credit society and it was found that the office was closed. He approached the police for lodging complaint but there was no action by the police and as such he filed a private complaint.

4. The complainant in C.R.No. 422/2018 has alleged that he had deposited an amount of Rs. one lakh with the credit society and subsequently he found that office of the credit society was closed. He approached the police for registering the offence but there was no action and hence he filed a private complaint in which directions were issued under section 156(3) Cr.P.C.

5. The applicant preferred applications for anticipatory bail in respect to both the complaints before the learned Sessions Judge, Majalgaon. The applications were rejected by order dated 13th August, 2021.

6. Learned Senior Advocate Mr. V. D. Sapkal submitted that the applicant had been implicated in several complaints. No specific overt act has been attributed to the applicant. Except stating that the applicant was Director of the Credit Society, there is no specific allegation about his participation in the day to day affairs of the credit society. The applicant was arrested in CR No.117/2018 and CR No.121/2018 and he was in custody for substantial period of time. Although the first information reports in respect to both these cases were registered in 2018, custody of the applicant was not sought by the investigating agency while he was in custody for the aforesaid two offences. Charge-sheet has been filed accordance with section 299 Cr.P.C. CR No.117.2018 was registered with Majalgaon City Police

Station and CR. No. 297/2018 is also registered with the same police station. The applicant has been granted bail in CR No. 117/2018 and CR No. 121/2018. The applicant was in custody for a period of more than one year in Crime No.54/2018. This court has granted bail to the applicant vide order dated 27th February, 2020. The applicant is also granted bail in Crime No. 81 of 2018, 83/2018, Crime No.117/2018 as well as 121/2018. Learned counsel for the applicant pointed out the orders passed by this Court as well as by the Sessions Court. It is further submitted that co-accused who were facing identical allegations were granted anticipatory bail by the Sessions Court. Copies of the said orders are annexed to the applications.

7. Learned A.P.P. submitted that applicant was a director of the Credit society. He has participated in the offence. In both the cases loss is caused to the complainants. Deposits were made by the complainants with the credit society and they did not receive any returns. Offence is of serious nature. Custodial interrogation of the applicant is necessary. The applicant was absconding; both the charge sheets are filed against him under section 299 Cr.P.C. The complainant was not available for interrogation in both these cases.

8. I have perused the documents annexed to these applications as well as the investigation papers produced by learned A.P.P. CR No. 297/2018 was registered on 16th October, 2018 with Majalgaon City

Police Station whereas CR No. 422/2018 was registered with Majalgaon Rural Police station on 25th December, 2018. Allegations in both the first information reports are apparently similar but the aggrieved persons are different. It is alleged that the applicant was Director of the Credit Society. The applications preferred by the applicant were rejected by the Sessions Court. On perusal of the order dated 13th August, 2021 passed by the learned Sessions Judge rejecting application for anticipatory bail in Crime No.297/2018, it can be seen that the order does not refer to any specific role played by the applicant. The learned Sessions Judge observed that the applicant was absconding. In para 4 of the said order, it has been observed that the first information report does not show any specific allegation against the applicant. Whether the applicant is vicariously liable for the offence needs to be taken into consideration.

9. It is pertinent to note that the applicant was arrested in Crime No.54/2018 Registered with Uttamnagar Police Station, District Pune for similar offence. This Court granted bail to the applicant. He was in custody for a period of more than year. Reference was made to the order dated 6th June, 2019 passed by the this Bench granting bail to the applicant in CR No.117/2018 registered with Majalgaon City Police Station. While granting bail in CR No.54/2018, it was observed that there is no role attributed to the applicant as a person who has induced depositors to deposit the amount. I have also perused the order dated

20th November, 2019 passed by the learned Sessions Judge, Beed granting bail to the applicant in CR No.81/2018. The applicant was also granted regular bail in Crime No. 83/2018 by order dated 22.11.2019. Reasons for granting bail have been narrated in detail. This Court had also granted bail to the applicant in CR No.117/2018. The said FIR was registered with Majalgaon City Police Station. The applicant was in custody for about 11 and half months. Similarly, the co-accused were granted anticipatory bail. Copies of the orders are annexed with the applications. Co-accused Surekha, Amit, Santram and others who were apprehending arrest in CR No. 297/2018 and against whom it was alleged that they were directors of the credit society were granted anticipatory bail by the Sessions Court.

10. The applicant was in custody for substantial period of time and it is difficult to accept that he was absconding. Although the applicant was in jail in connection with CR No 117/2018 and CR No. 121/2018 which were registered with same police stations where the present FIR are registered, custody was not sought. The allegations appear to be the same. In the present case, in CR No.297/2018 alleged loss to the complainant is to the tune of Rs.11 lakhs whereas in CR No. 422/2018 it is Rs. one lakh. The applicant had undergone custody for substantial period of time in other cases. FIR do not spell out role of the applicant.

11. Considering the factual aspects as stated above, the custodial interrogation of the applicant is not necessary in both these F.I.Rs. Hence, I pass the following order :-

ORDER

- i. Anticipatory Bail Application Nos. 1070 of 2021 and 1072/2021 are allowed;
- ii. In the event of arrest of the applicant in C.R. No. 0297/2018 registered with Majalgaon City Police Station, District Beed, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii. In the event of arrest of the applicant in C.R. No. 422/2018 registered with Majalgaon Rural Police Station, Tq. Majalgaon, District Beed, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iv. The applicant shall report the investigating officer in C.R. No. 0297/2018 on 20th, 21st and 22nd October, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.

- v. The applicant shall report the investigating officer in C.R. No. 0422/2018 on 25th, 26th and 27th October, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.
12. Anticipatory Bail Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC