

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

**904 ANTICIPATORY BAIL APPLICATION NO.1327 OF 2021
HEMA W/O SURESH SUPEKAR
VERSUS
THE STATE OF MAHARASHTRA**

...
Mr. Ajay G.Talhar, Advocate for applicant
Mr. S.B.Narwade, APP for Respondent-State

...
CORAM : PRAKASH D. NAIK, J.

DATE : 16th DECEMBER, 2021

PER COURT:

1] The applicant is apprehending arrest in Crime No.0376 of 2019 registered with CIDCO Police Station, Aurangabad for the offences punishable under Sections 406 and 409 read with Section 34 of Indian Penal Code (for short 'IPC') and Sections 3 and 4 of the MPID Act. The First Information Report (for short, 'FIR') was lodged on 29th July 2019.

2] The case of the prosecution is that the complainant and several other persons had invested the amount with Shree Mahalaxmi Multi State Co-operative Credit Society Ltd. Applicant and the other accused were Chairman, Vice-Chairman and Directors of the said Co-operative Society. The complainant had alleged that although promises were made for good returns, the same were not fulfilled. Loss of Rs.6,21,450/- was caused to the complainant. Investigation proceeded and statements of other aggrieved persons were recorded.

3] Applicant had preferred an application for anticipatory bail before the Court of Sessions, which has been rejected by order dated 28th January 2021.

4] Learned Advocate for applicant submitted that the entire amount invested by the investors in connection with Crime No.376 of 2019 has been refunded to the investors. Applicant is a lady. Her custodial interrogation is not necessary. The co-accused Ashok Gaikwad, Machhindra Khade, Sanjay Khonde, Rahul Damle and Rajendra Parakh were arrested and they had preferred an application for bail. Their application was allowed vide order dated 22nd December, 2020. In paragraph 13 of the said order, it was observed that the MPID Act was enacted to protect the interest of the depositors. The intervention application was preferred by the first informant and it was submitted that the Society has repaid the amount deposited to the first informant, as well as the other witnesses.

5] Learned APP submitted that the application preferred by accused namely Ajay Aakade and Chandrakant Aakde was rejected by this Court by order dated 27.11.2020. The applicant has played a vital role in the transactions of investment. The custodial interrogation of applicant is necessary. The applicant is involved in Crime No.12 of 2019 registered with Tofkhana Police Station and Crime No.827 of 2019 registered with Kotwali Police Station. The said complaints are related to the investment

with the same Credit Co-operative Society. Learned APP tendered the report of the Investigating Officer, which is taken on record.

6] From the order granting bail to the other directors as referred to herein above, it can be seen that the entire investment has been refunded to the investors. The first informant had intervened in the said application and submitted before the Court that the payment is refunded to the informant as well as the other witnesses. The learned Judge granted bail to the other directors. Although, it was application for regular bail, the fact remains that the payment was undisputedly refunded to the investors. Apparently, the said order was passed on 22nd December 2020. The application of two accused was rejected by this Court prior to grant of bail to accused on the ground that amount was refunded. In the order dated 27.11.2020 there is no reference of refunding invested amount. The applicant is lady. Since the amount has been refunded, she did not subject to custodial interrogation. Learned Advocate for applicant submitted that in connection with Crime No.827 of 2019 is registered with Kotwali Police Station, the Co-operative Credit Society had refunded the entire amount to the investors. As far as Crime No. 12 of 2019 is concerned, the Co-operative Credit Society has refunded the amount to 22 investors. There are about 28 depositors in total in that case.

7] In the light of above said circumstances, the applicant need not be subjected to custodial interrogation. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application No.1327 of 2021 is allowed.
- (ii) In the event of arrest of applicant in connection with Crime No.0376 of 2019 registered with CIDCO Police Station, Aurangabad, the applicant be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) Applicant shall report Investigating Officer, as and when called for.
- (iv) Application stands disposed of.

(PRAKASH D. NAIK, J.)

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