IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 343 OF 2021

Satyawan Bhikaji Belote ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.Aniket U. Nikam i/b. Mr. Piyush Toshnival for the Applicant.
Mr. A.A.Palkar, APP for the Respondent -State.

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CORAM : V.G.BISHT, J.
RESERVED ON : 6TH NOVEMBER, 2021
PRONOUNCED ON : 15TH DECEMBER, 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 90 of 2019 registered with Otur Police Station, Pune Rural for the offences punishable under Sections 406, 408, 409, 420, 463, 464, 465, 467, 468, 470, 471, 120B, 477A read with 34 of the Indian Penal Code (the IPC) and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositers (In Financial Establishments) Act, 1999.

2. The prosecution case in short is that, informant is serving in Co-operative Department as a Special Auditor. He was authorized to conduct Governments Test Audit of Mahalaxmi Gramin Bigar Sheti Sahakari Patsanstha Maryadit, Umraj No. 1, Taluka- Junnar, District- Pune for the period of 1st April, 2011 to 31st March, 2017. He accordingly conducted audit of the said society and submitted the report dated 20th May, 2019. During the audit, he found various irregularities and misappropriation of funds. The Commissioner accordingly directed him to file criminal case. Pursuant to the said direction, the complaint was lodged against 33 persons.

3. Prosecution alleges that the Chairman of the said co-operative society, namely, Hanuman Hande and Vice Chairman Ramchandra Hande misappropriated funds to the tune of Rs. 30,81,55,000/- during the period from 1st April, 20211 to 31st March, 2017 by making false and bogus proposal in the name of members and thereby remitted the loan amount to the account of said members. It is further

alleged that the Chief Manager of the co-operative society, namely, Sathyawan Belote (applicant), Branch Managers Sandip Hande, Manohar Shelke, Bhagvan Hande and Ravindra Shinkote also deliberately omitted to perform their duty and wrongly took the entry of credit-debit balance and created false balance sheets, suppressing the true and correct financial position. Similarly, Statutory Auditors, namely, Paresh K. Shah, Chaitanya Kalyankar and internal auditors – Avinash Navle and Ramdas Shirke also did not perform their duties and responsibilities, failed to discharge the duties and submitted incorrect audit report. In the above premise, the First Information Report came to be filed.

4. Mr. Nikam, learned Counsel for the applicant, submits that role of the present applicant was very limited and then invited my attention to the statement of prosecution witness, namely, Kiran Sharad Hande. According to this witness, all the loan proposals submitted to the society used to be scrutinized by the Branch Manager and thereafter it is the

duty of the Branch Manager to send those proposals to the Chief Manager who in turn used to submit those proposals to the Board of Directors in a monthly meeting and it is only thereafter their approval, loan used to be sanctioned. According to learned Counsel, the main accused in the whole episode are the Chairman and Vice Chairman. Not a single penny was taken by applicant nor he misappropriated any amount. Investigation is completed. Charge-sheet has been filed. No useful purpose will be served by keeping the applicant behind the bars.

5. Mr. Palkar, learned APP, on the other hand, submits that the applicant was the Chief Manager of the said co-operative society in question and he in collusion with the Chairman and Vice Chairman sanctioned illegal loans and thereafter the monies involved in the sanctioned loan came to be misappropriated by them. Having regard to the nature of offence, the applicant does not deserve to be enlarged on bail, argued learned APP.

6. Perused investigation papers. Before I go into the merits of the case, I would like to note that number of accused had moved anticipatory bail applications before this Court **(Coram: Prakash D. Naik, J.)**. Vide order dated 7th September, 2021, this Court was pleased to confirm the ad-interim protection, which was granted to them earlier.

7. During the course of discussion, this Court found that the allegations were leveled against the President and Vice President of the said co-operative society. The President, namely, Hanuman Hande, on his part, also admitted and confessed that he is responsible for the fraud and accordingly on 12th September, 2016, Hanuman Hande and Akshay Hande, who is Vice Chairman, executed an agreement with the said members of the Patsanstha stating therein that Hanuman Hande admittedly had taken loan of Rs. 17,17, 57, 920/- from Patsanstha and also agreed to refund the same and if fails then the Patsanstha can take possession of his properties. On 16th January, 2019, the

members of Patsanstha wrote a letter to Additional Registrar Co-operative Societies stating that the President and Vice President were responsible for the fraud and misappropriation.

8. From the above observations of this Court and as also the material on record, it is clear, *prima facie,* that main role is attributed to accused Nos. 1 and 2, namely, Hanuman Hande and Akshay Hande. Although the prosecution has alleged that the applicant had conspired with the main accused but alleged conspiracy will have to be gone into by the trial Court.

9. As of now, except general allegation, nothing is forthcoming. As far as duty of the applicant is concerned, it is evident from the statement of Kiran Hande that the role of scrutiny of the loan proposal was with Branch Manager and it is only after the loan proposal was complete in all respects, the said Branch Manager used to send it to Chief Manager i.e. applicant. The Chief Manager then, on its part, used to put

that proposal in a monthly meeting of the Board of Directors where the proposal used to be sanctioned. Thus, major role was that of accused Nos.1 and 2 and other Board of Directors.

10. Admittedly, the investigation is over and charge-sheet has been filed. No other antecedents are brought to my notice. The trial may take its own time to conclude. In such circumstances and having regard to the material on record, I am of the opinion that the applicant has made out a case for bail. Hence, the following order :

ORDER

(i) Applicant- Satyawan Bhikaji Belote shall be released on bail in C.R. No.90 of 2019 registered with Otur Police Station, Pune on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two surety/ sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the trial court proceedings regularly.

(iv) Bail before the trial Court.

(v) It is made clear that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(vi)Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(vii) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)