

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.437 OF 2020

1. Prakash Appa Kale, &
2. Shahaji Raghunath Jadhav. Applicants
Versus
The State of Maharashtra Respondent

Mr. Satyavrat Joshi, Advocate i/b. Nitesh J. Mohite, for the
Applicant.
Smt. A.A. Takalkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th MARCH, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.46/2020 registered at Shirol Police Station, District-Kolhapur on 21.1.2020 under Sections 408, 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code.

2. The FIR is lodged by one Dhondiram Chougule, who was a Chartered Accountant and was on the Panel of Government of Maharashtra as Auditor. He had conducted

audit in respect of Shetkari Sahakari Sangh Ltd., Kolhapur, which was a co-operative society, hereinafter referred to as 'the said society'. The said society has 63 branches and one of them was Shirol branch. The Branch Manager was Amar Gurav. The present Applicants were Supervisors for that Branch. The duty of the Applicants was to see how much quantity of goods was available, inspect the accounts and keep control over the profit and loss. There are allegations that between 1.4.2018 to 31.3.2019, the informant had conducted the audit. After the audit, it was found that there was substantial loss because there was shortage of fertilizers and other goods. The FIR mentions that the accused Amar Gurav had deposited Rs.15,90,000/- and accused Nilesh had deposited Rs.50,000/- and thus the total unrecovered loss was quantified to Rs.20,32,272.36.

3. The allegations against the present Applicants are that on 20.9.2018 the Applicant Prakash had given a report that there were goods worth Rs.187.20 metric tonnes but the godown has capacity of maximum 71 metric tonnes and,

therefore, it was a wrong report. The Applicant No.2 had also given a report based on wrong facts. On this allegations, the FIR was lodged.

4. Heard Shri Satyavrat Joshi, learned Counsel for the Applicants and Smt. A.A. Takalkar, learned APP for the State.

5. Learned Counsel for the Applicants submitted that before the FIR was lodged the said society had conducted their internal audit and at the end of it there were allegations that the Applicants had not pointed out shortage of funds and goods to the main office. After this audit was conducted in April, 2019, the society passed a resolution that the FIR be lodged against accused Amar Gurav and it was recommended that administrative action be taken against both the Applicants by holding back their increment and by giving them warning. He submitted that even the said society did not look at them as offenders and only administrative action was taken against them.

6. Learned A.P.P. produced the investigation papers before me. It contains the report submitted by both of these Applicants and she opposed the Application.

7. I have considered these submissions and I have perused the reports. The report given by the Applicant Prakash are dated 19.12.2018 and 6.10.2018. The audit was conducted by the first informant in January, 2019. Similarly the report given by Applicant No.2 Shahaji Jadhav was dated 25.4.2018. Therefore, there was a gap between their reports and the audit in 2019 January. The society itself has found negligence on the part of both the Applicants. But no criminal offence is attributed against them. The investigation carried out so far has not revealed that the Applicants were beneficiaries in any manner. The Applicants have attended the police station as directed and have cooperated with the investigation. In this background, they can be protected by an order of anticipatory bail. They, of course, will have to attend the concerned police station and will have to cooperate with the investigation. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.46/2020 registered at Shirol Police Station, District-Kolhapur, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) Anticipatory Bail Application stands disposed of accordingly.

Pradeepkumar
P. Deshmane
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signed by
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(SARANG V. KOTWAL, J.)

Deshmane (PS)