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

**ANTICIPATORY BAIL APPLICATION NO. 991 OF 2019**

Yashwant Tulshiram Yadav & Anr. … Applicants

Versus

The State of Maharashtra … Respondent

**WITH**
**ANTICIPATORY BAIL APPLICATION NO. 620 OF 2019**

Appa @ Ravindra Hanmant Shere … Applicant

Versus

The State of Maharashtra … Respondent

**WITH**
**ANTICIPATORY BAIL APPLICATION NO. 705 OF 2019**

Savita Amrut Jadhav … Applicant

Versus

The State of Maharashtra … Respondent

**WITH**
**CRIMINAL APPLICATION NO.785 OF 2019**
**IN**
**ANTICIPATORY BAIL APPLICATION NO. 705 OF 2019**

Shekhar Sunil Washimbekar … Intervener

**IN THE MATTER BETWEEN**

Yashwant Tulshiram Yadav & Anr. … Applicants

Versus

The State of Maharashtra … Respondent

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Shri M. S. Mohite, Sr. Advocate i/b. Mr. Rajesh S. Jadhav, for the Applicant in ABA No.991/2019.

Mr. Umesh H. Pawar, for the Applicant in ABA No.620/2019.

Mr. Swaraj S. Jadhav, for the Applicant in ABA No.705/2019.

Mrs. Anamika Malhotra, APP for the Respondent – State.

Mr. Sagar Tambe i/b. Mr. Ritesh Thobde, for the Intervener in Application No.785/2019.

Mr. Riyaz Mehboob Mujawar, Police Sub Inspector, E.O.W. Solapur Rural, I.O., present.

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

**DATE : 03rd MARCH, 2021**

**PC :**

. The applicants in all these applications are seeking anticipatory bail in connection with C.R.No.609/2018 registered with Karmala Police Station, Karmala, Dist. Solapur for the offences under Sections 204, 205, 120-B, 403, 406, 408, 409, 418, 420, 463, 467, 477-A read with 34 of Indian Penal Code. The F.I.R. was registered on 28th July 2018, on the basis of the private complaint filed by the complainant and pursuant to the directions issued by the concerned Court directing investigation under Section 156(3) of Criminal Procedure Code.

2. Prosecution case is as follows.

The complainant lodged a private complaint bearing Cri. Misc.

Application No.200 of 2018 on 12th July 2018 before the Court of learned J.M.F.C. It was alleged that the accused Nos.1 to 4, hatched criminal conspiracy and committed breach of trust to the tune of Rs.1,52,31,689/- in relation to the fodder camp of cattle which was being funded by the State of Maharashtra. It is alleged that the complainant was the Secretary of the Co-operative Credit Society namely Amrutvel Nagari Sahakari Patsanstha Maryadit, Karmala, Dist. Solapur. The accused had withdrawn amount of the credit society for their own gain. The Government of Maharashtra had sanctioned cattle fodder (Chara Chawani) to the society. The funds of Rs.1.42 Crores were received from the State Government. The applicants and the other accused in connivance misappropriated the funds. The applicant No.2 is wife of applicant No.1 in the Anticipatory Bail Application No.991 of 2019. Applicant No.1 therein was the Director and applicant No.2 was the Secretary of the said Credit Society. It was further alleged that amount of Rs.10,20,294/- was utilized for personal gain by the accused. Forged documents were prepared causing wrongful loss. The applicant in Anticipatory Bail Application No.705 of 2019 is the sister of applicant No.2 in Anticipatory Bail Application No.991 of 2019. She has acted in connivance with other accused. The applicant in Anticipatory Bail Application No.620 of 2019 was controlling fodder depot. It is alleged that huge amount was transferred into his account. All of them had acted in furtherance of intention to cause wrongful loss to the society and usurp the amount sanctioned by the Government. The Audit was conducted which showed the malafide acts committed by the accused.

3. Heard learned Senior Advocate Mr. Mohite in Anticipatory Bail Application No.991 of 2019, Mr. Swaraj Jadhav in Anticipatory Bail Application No.705 of 2019 and Mr. Umesh Pawar in Anticipatory Bail Application No.620 of 2019. The submissions of the learned Advocates for the applicants is that, the private complaint was filed by the complainant with malafide intention to cause harassment. To avoid inquiry against him, the complainant had falsely implicated applicants. All the decisions were taken under the directions of the Chairman of the Society who had not been implicated as an accused. Inquiry was conducted by the special Auditor as well as private Auditor and there findings are contradictory. The complaint relates to old transactions. The entire case relates to the documents and custodial interrogation of the applicants is not necessary. Mr. Mohite relied upon Judgment of this Court in the case of *Mahadev Uttam Rajurkar and others V/s. State of Maharashtra* delivered in the Criminal Application No.585 of 2017.

4. Learned Advocate Mr. Jadhav appearing in Anticipatory Bail Application No.705 of 2019 submitted, that no overt act has been attributed to the applicant therein. She was implicated since she sister of one of the co-accused. The allegations against her are vague. She is not signatory to any documents. No specific role is attributed to her pertaining to the transactions and misappropriation of amount. She was not in possession of any documents. It is a matter of record that entire transaction and day to day affairs of Society were conducted by the Directors. She was an employee and has no role to play in the business of the Society. Being an employee, she was required to follow the instructions of higher authorities. Her custodial interrogation is not necessary.

5. Learned Advocate Mr. Pawar appearing for the applicant in Anticipatory Bail Application No.620 of 2019 submitted that he has no connection with the Co-operative Credit Society. He has not participated in the activity of Society. Although, it is alleged that the amount is withdrawn by him by bearer cheques, the record does not show that the cheques bear his signatures. The signatures appearing on cheques and admitted signatures of the applicant differ. He has nothing to do with business of Co-operative Credit Society. He is not beneficiary of misappropriated of amount. His role is completely

different in comparison to other persons. He is not involved in forgery of any documents. He had no control over the activities of Co-operative Credit Society. He need not be subjected to custodial interrogation.

6. Learned APP submitted that the offence is of serious nature. Huge amount is misappropriated by the accused in connivance with each other. The applicant had played vital role in defalcation of the amount. The Government had sanctioned the amount for conducting fodder depot for the benefit of farmers. The said amount has been misappropriated by the accused. She relied on Affidavit filed by the investigating officer opposing these applications. The statements of the witnesses were recorded during the investigation. Investigation reveals the complicity of the applicants in the offences. The inquiry conducted by the Auditor is no bar for investigation. The accused are involved in forgery and misappropriation of huge amount. It is therefore, submitted that the applications be rejected. Learned Advocate for intervener supported submissions of learned APP.

7. Having heard both the sides, I have also perused the documents on record, the Affidavit-in-Reply filed by investigating officer and the investigation papers.

8. The F.I.R. has been registered pursuant to private complaint

filed by respondent No.2. According to prosecution, the investigation conducted by the Police indicate that huge amount is misappropriated by them. Initially, the investigation was conducted by the local Police Station which was then transferred to the Economic Offences Wing, Solapur. During the course of investigation, the statements of witnesses were recorded which, according to prosecution, disclose involvement of all the applicants. The spot panchnama was conducted. Supplementary statement of complainant was recorded. Correspondence was made with the Asstt. Registrar, Co-operative Credit Society seeking information. It is alleged that the amount was misappropriated by the accused. The applicant Yashwant Tulsiram Yadav is the Director of Co-operative Credit Society and the applicant Kavita Yashwant Yadav was the Secretary of the said Society. It is alleged that she had issued cheques in the name of Ravindra H. Shere (applicant in Anticipatory Bail Application No.620 of 2019). It is revealed that the accused Yashwant Yadav and his wife also issued cheques in the name of another accused Ganesh Kshirsagar and transferred the amount. The Affidavit-in-Reply the prosecution mentions that during the course of investigation, it was revealed that the accused Ravindra Shere had withdrawn the amount from Bank of Maharashtra. The record shows that the accused had shown that the labourers who were working at the fodder depot as fodder purchaser and accused persons obtained huge amount in their names from the Banks. The accused prepared forged documents in the names of labourers as well as fictitious persons and obtained the amount. The documents submitted by the accused for sanctioning bill in which the registration of vehicle numbers were mentioned and those registration of vehicles numbers are found to be fake. On 13th November 2018 statement of Additional Special Auditor was recorded wherein, he has given details about the acts committed by accused No.1 to 8. The role of Yashwant Yadav is that he was Founder and the Director of the Credit Society. Fodder depot was conducted from 2012-13 after obtaining permission from the Government. He along with Ravindra Shere and his brother Dilip Shere submitted forged documents to the Government for running the aforesaid fodder depot and accused obtained huge amount. The cheques were issued in the name of co-accused and the amount was misappropriated. The accused Yashwant Yadav also shown the expenditure on the building of Sanstha to the tune of Rs.10,20,294/-. The applicant Kavita Yashwant Yadav was the Secretary of the Credit Society. She and her husband who is accused who conducted fodder depot and after obtaining necessary permission, obtained huge amount. She issued cheques for expenditure of building without requisite Resolution she had withdrawn the huge amount by self cheques. The applicant Savita Jadhav was the Manager of Sanstha. According to prosecution, she had signed on the backside of cheque dated 9th April 2013 of Baramati Sahakari Bank issued by the co-accused Yashwant Yadav and Kavita Yadav. She was supposed to maintain the record of the Society including fodder depot. Apparently, it appears that Savita Jadhav had filed an Affidavit stating that the documents are with accused No.1. The applicant Appa alias Ravindra Shere is not the office bearer of the Credit Society but he had received cheques from the Society. He had confessed in the Audit inquiry that he received Rs.1,20,000/- on 18th June 2013 and Rs.1, 70,000/- on 20th August 2013 from accused Yashwant Yadav and Mrs. Kavita Yadav.

9. I have also perused the statements of the witnesses tendered by learned APP. The said statements disclose role played by the applicants. Some of the witnesses have stated that the applicant Ravindra Shere was actively involved in conducting fodder depot. One of the witnesses stated that he was working in the fodder depot as a labourer. He was shown receipt having paid amount to him. He did not receive any amount and the voucher in respect of payment is forged. The said statements discloses involvement of Ravindra Shere. It is the contention of the said applicant that his signatures were not

appearing on the self cheques and he is not beneficiary of any amount. However, investigation reveals his complicity. Thus, the applicant Yashwant Tulsiram Yadav, Kavita Yashwant Yadav and Ravindra Shere Appa alias Ravindra Shere were prima facie involved in this transaction. As far as Savita Amrut Jadhav is concerned, I do not find that considering the role attributed to her, she should be subjected to custodial interrogation. However, looking into the materials on record, other applicants are not entitled for the relief under Section 438 of Cr.P.C.

10. Hence, the following order.

**<u>O R D E R</u>**

(i) Anticipatory Bail Application No.991 of 2019 and Anticipatory Bail Application No.620 of 2019 are rejected.

(ii) Anticipatory Bail Application No.705 of 2019 is allowed.

(iii) In the event of arrest of the applicant Savita Amrut Jadhav in connection with C.R.No.609 of 2018 registered with Karmala Police Station, Karmala, Dist. Solapur, she may 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;

(iv) At this stage, the learned Counsel for the applicant in Anticipatory Bail Application No.620 of 2019 and Anticipatory Bail Application No.991 of 2019 submit that interim protection was in their favour for a long time and they proposes to move the Apex Court for seeking appropriate relief. Hence, interim protection be extended by three weeks. Learned APP objected the prayer for extension of relief. However, considering that the interim protection was in favour of the applicants during pendency of application and considering submission of learned Advocates the interim relief is continued for three weeks.

(v) All applications including Criminal Application No.785 of 2019 are disposed of accordingly.

11. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**(PRAKASH D. NAIK, J.)**