IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1317 OF 2019

Shripati Vithoba Kalkote .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Satyavrat Joshi, Advocate a/w. Sunil S. Kamble, for the Applicant.

Smt. A.A. Takalkar, APP for the Respondent-State.

Mr. Riyaz Mehboob Mujawar, Police Sub-Inspector, EOW Solapur Rural is present.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.380/2018 registered at Akkalkot North Police Station, Solapur Gramin dated 5.9.2018 under Sections 420, 406 read with 34 of the Indian Penal Code.

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

3. The FIR is lodged by one Ambadas Koli. He has stated that he had retired in the year 2014 and he had received Rs.14 Lakhs as his retirement benefits. According to the first informant, all the accused connected with Subh Kalyan Multi State Co-operative Credit Society, by making advertisement and by introducing schemes invited investments and had made tall claims. The Chairman of the said society was one Diliprao Apet. The present Applicant was the Branch Manager of the Akkalkot Branch of the said society. It is alleged in the FIR that all the accused, including the present Applicant, induced him to invest in their society. The informant had deposited Rs.4 Lakhs in the society in the year 2015-2016. Initially he was given some returns but after a few years, he was not returned his deposits. There were other victims who had likewise invested in the society and who had lost money. The informant himself was entitled to receive Rs.4,49,250/-, which were not returned. On this basis, the FIR is lodged and the investigation is going on.

4. The Applicant was protected by an order dated 21.6.2019 by way of interim protection.

5. The investigating officer has filed the affidavit-in-reply dated 8.2.2021 opposing grant of final relief.

6. Shri Joshi, learned Counsel for the Applicant submitted that the Applicant was not one of the Directors of the Society. He was merely a Branch Manager. It was his duty to procure business for the society. He has not benefited in any manner in the entire offence. He submitted that during past two years, he was called only once to the police station. He has fully cooperated with the investigation. He further invited my attention to various requisition letters sent by the Applicant to the Chief Officer of the Credit Society for release of funds for making payments to the investors. All these letters are annexed to this Application. They are dated 19.12.2015, 1.1.2016, 18.1.2017, 12.2.2018 etc.. He, therefore, submitted that the Applicant did his best to return the amount invested with his branch. However, he was helpless since the funds were not released.

7. Learned A.P.P. opposed this application based on the averments made in the affidavit filed by the investigating officer. It is mentioned in the affidavit that the main accused Diliprao Apet is arrested in the offence. There are 16 accused in this offence and in respect of this Credit Society 32 offences are registered throughout the State of Maharashtra. It is mentioned in the affidavit that the Applicant's custody is necessary to find out how much amount was misappropriated by him and if anticipatory bail was granted to him, there was likelihood that the Applicant would not cooperate with the prosecution machinery. It is further averred that there was every possibility that the relevant documents would be in the custody of the Applicant and they need to be recovered. According to the investigating officer, since the Applicant had persuaded the informant to deposit his money in the society, it shows that he has played active role. According to the investigating officer, the Applicant is highly influential person.

8. I have considered all these submissions and the rival contentions. It is really difficult to find fault with the

Applicant's approach towards the investors. He was working as a Branch Manager of that Credit Society, and it was part of his duty to get as much business as possible for the society.

9. His correspondence with the Chief Officer also shows that he made sincere efforts to get the funds to return the amounts invested in his credit society.

10. After two long years of investigation, in the entire affidavit there is not a whisper to show that the Applicant is the beneficiary of this misappropriation. The contention that he may tamper with the documents does not hold any force because if he wanted to do so he could have done so since past two years.

11. The affairs of the society were not handled properly as can be seen from 32 offences registered all over the State. Therefore, it cannot be said that it was because of the misappropriation at the Applicant's branch, the Society was in a bad financial state.

12. In this view of the matter, custodial interrogation

of the Applicant after two years of interim protection will not serve any real purpose. He will have to, of course, attend the office of the investigating agency and he will have to cooperate with the investigation. The investigation can go on effectively even without his custodial interrogation. Therefore, I am inclined to pass final order in this anticipatory bail application. Hence, the following order :

ORDER

(i) In the event of his arrest in connection with C.R.No.380/2018 registered with Akkalkot North Police Station, Solapur Gramin, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.

(iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)