IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 05 OF 2021

Satish Rajaram Paithankar .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH
INTERIM APPLICATION NO. 304 OF 2021

Shantabai Kharbhari Abhang & Anr. …. Intervenors.

<u>In the matter of:</u>

Satish Rajaram Paithankar .... Applicant
Versus
The State of Maharashtra .... Respondent

Smt. Vrishali Raje i/b. P. N. Joshi for Applicant.
Mr. Ajay Patil, APP for State/Respondent.
Mr. Viral Rathod i/b. Mr. Chetan S. Damre for Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 07th APRIL, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 260 of 2020 registered at Yeola Police Station, Dist. Nashik, on 10/09/2020, under sections 406, 409 and 420 r/w. 34

of the Indian Penal Code (for short 'IPC') and under section 3 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999. The investigation is now taken over by Economic Offence Wing, Nashik Rural.

2. Heard Smt. Vrishali Raje, learned counsel for the applicant, Shri. Ajay Patil, learned APP for the State and Shri. Viral Rathod, learned counsel for Intervenor.

3. The First Information Report (for short 'F.I.R.) is lodged by one Sanjeev Shinde. He was Auditor – Class II for Co-operative Societies, Nashik. He has stated in his F.I.R. that, he was assigned the work of conducting audit of Sant Janardan Swami Nagri Sahakari Patsanstha Maryadit, Nagarsul, Taluka Yeola, District Nashik. Audit was conducted for transactions between 01/04/2006 to 31/03/2019. After the Audit, he found serious violations/irregularities in the conduct of affairs of the said credit society, as follows:

i) Disbursement of loan without proper security and without following rules. The amount involved was Rs.82,41,500/-.

ii) Disbursement of loan without proper valuation. The amount involved was Rs.9,93,818/-.

iii) Not returning deposits and interests of the depositors. The amount involved was Rs.57,62,044/-.

iv) Misappropriation by violating rules. The amount involved was Rs.2,19,404/-.

v) One Mukesh Mali was disbursed loan without security in violation of rules. The amount involved was Rs.10,65,000/-.

vi) Cash misappropriation. The amount involved was Rs.6,02,763/-.

The total amount involved in the offence was Rs.1,68,84,529/-.

4. Contention of the applicant was that, most of the amounts were either returned or wrongly shown as misappropriated. Therefore, on the earlier occasion, this court had directed the applicant to approach the investigating officer and to

explain his side of story. Accordingly, he was called by the investigating officer. The I. O. has filed his affidavit dated 01/04/2021. The stand taken in that affidavit by the I.O. was that, he had inspected the receipts, report of the Auditor and re-calculated the amounts deposited by the applicant, as well as, amounts recovered by the Administrator. The affidavit mentions that the amount in the name of aforementioned Mukesh Mali was mentioned twice and, therefore, deducting that amount of Rs.10,65,000/-, the total misappropriated amount was Rs.1,58,19,529/-. From this amount, the amount of Rs.1,75,62,884/- was recovered, as well as, deposited by the applicant through various modes. The affidavit categorically states that the differential amount of Rs.17,43,315/- is to be returned to the applicant now. Thus, as the matter stand today, loss suffered by the credit society is not only wiped out but some amount is to be paid to the applicant himself, as per investigation carried out so far. Of course, this recovery and deposit was mostly done after registration of F.I.R., therefore, the investigation can still go on. But considering this situation, the applicant’s case for anticipatory bail can be favourably considered.

5. Learned counsel for the intervenor tried to oppose this application, but in view of result of the investigation carried out so far, which is reflected in the affidavit, I do not see any reason to permit custodial interrogation of the applicant, in the facts of this case and in the background of the stand taken by the investigating agency in their affidavit. The investigation can still go on and the applicant will have to cooperate with the investigation.

6. Hence, the following order :

<u>ORDER</u>

(i) In the event of his arrest in connection with C.R.No. 260 of 2020 registered at Yeola Police Station, Dist. Nashik, the applicant is directed to be released on bail on his furnishing P. R. 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 investigation agency, as and when called and shall cooperate with the investigation.

(iii) The applicant shall deposit his passport, if any, with the investigating agency.

(iv) The applicant shall not leave the country without prior permission of trial court.

(v) Application stands disposed of accordingly.

(vi) In view of disposal of this anticipatory bail application, nothing survives in the Interim Application No.304 of 2021, therefore, it is also disposed of. In any case, I have heard learned counsel for the Intervenors.

(SARANG V. KOTWAL, J.)