

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2397 OF 2019

Pandharinath Genubhau Raut,]
R/o. Flat no.303, Third Floor, Near Shivaji]
Statute, Aundh Gaon, Pune – 411 007.]
(Presently at Yerwada Jail, Pune).] ... Applicant

Versus

The State of Maharashtra]
(At the instance of Chaturshrungi Police]
Station, Pune)] ... Respondent

...

Mr. Anil D. Joshi for the Applicant.

Mr. S.R. Agarkar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 25TH JUNE, 2021.

P.C.:-

1. Heard Mr. Anil Joshi, learned counsel appearing for the Applicant and Mr. Agarkar, learned A.P.P. appearing for the State.
2. The Applicant is arrested on 21/12/2018 in connection with

FIR No.332 of 2018 registered with Chaturshrungi Police Station invoking Sections 406, 409, 420, 465, 467, 468, 471, 120-B read with Section 34 of the Indian Penal Code (“**IPC**”) and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999 (“**MPID Act**”). On completion of investigation, charge-sheet is filed and the case is registered as MPID Case No.7 of 2019. Successive bail applications of the Applicant came to be rejected, which constrained him to approach this court.

3. The Applicant was working as Vice President of the Lokmangal Nagri Sahakari Patsanstha Maryadit, situated at Aundh, Pune, till 01/07/2017 when he resigned from the said Patsanstha. The allegation against the Applicant is that on the basis of the complaint made by the depositors of the said credit society, the Registrar of Co-operative Societies directed an audit to be carried out through a Special Auditor and the Complainant Deepali V. Pardhi, attached to the Co-operative Department was assigned the task of carrying out the audit of the Society. The audit was accordingly carried out for the period from 01/04/2016 to 31/03/2017. The audit so conducted revealed that the Applicant along with other co-accused prepared forged and bogus fixed deposit receipts bearing one and the same number and by issuing the same to the depositors accepted the amounts towards fixed deposits. Further, without refunding the said amounts along with the interest, the amounts that were accepted, came to be

misappropriated. The audit also highlighted that they also prepared two bogus loan transactions in the name of members of the credit society, without mortgaging any property and misappropriated those loan amounts. It was also revealed during the audit that the bogus loans were disbursed in the form of gold loans without accepting gold ornaments as security. The misappropriation was approximated to the tune of Rs.3,10,89,674/- and the offences came to be registered under the relevant provisions of the IPC and also invoked Section 3 of the MPID Act.

4. Pertinent to note that the Applicant was working as Director and Hon. Vice President of the Patsanstha and he pleaded innocence. It is true that the offence alleged to have been committed is an economic offence and it involves huge amounts of money but, it is also to be noted that the offence has implicated only three persons as accused viz. the present Applicant in the capacity as Director and Hon. Vice President of the Patsanstha, one Nitin Ramesh Khond, as the Hon. Secretary and one Pradip Pawaskar, President of the Patsanstha, who are charged with bogus disbursement of loans including gold loans, without obtaining adequate security and misappropriation of amounts.

5. During the course of hearing of the Application, learned A.P.P. had placed on record an affidavit filed by Assistant Police Inspector, Economic Offences Wing, Pune City, Pune, where it is

stated that after filing of the charge-sheet, the Investigating Agency had addressed a letter to the District Deputy Registrar, Co-operative Societies, Pune on 02/09/2020 seeking information in respect of enquiry under Section 88 of the Maharashtra Co-operative Societies Act, 1960 ("**MCS Act**"). It was informed that the District Deputy Registrar, Co-operative Societies, Pune City-I was appointed to hold the enquiry in respect of fraud and misappropriation in respect of the Lokmangal Nagari Sahakari Patsanstha and the opponents in the said enquiry have filed their respective replies. The authorized officer absolved the other office bearers and directors of the Patsanstha and found Pradeep Pawaskar and Nitin Ramesh Khond along with the present Applicant guilty and framed charges under Rule 72(3) of the Maharashtra Co-operative Societies Rules, 1971. The acquittal of the other directors from the charges of fraud and misappropriation was challenged by the Department by filing a Revision before the Divisional Joint Registrar, Co-operative Societies at Pune. It was also proposed that an enquiry be conducted against the District Deputy Registrar of Co-operative Societies, Pune. It is apparent that barring the three persons, other directors are not proceeded with and even in the FIR that is registered, all the directors are not indicted as accused.

6. The Assistant Police Inspector, Economic Offences Wing, Pune has also stated in the affidavit that the bank accounts of the accused and their relatives are freezed and the Registrar is

communicated with the list of immoveable properties.

The chart accompanying the affidavit showing the details of immoveable properties of the accused persons which included the Applicant, contain mention of two properties of the Applicant: (1) Flat No.15 admeasuring 650 sq. feet at Mauje Aundh Gaon, City Survey Nos.496 to 503 and 505 at Bhairavnath Co-operative Housing Society Limited valued at Rs.6,99,432/- and (2) Flat No.303, admeasuring 54.18 sq. meters located at Mauje Aundh (Gaonthan), Dist. Pune with approximate value at Rs.10,37,005/-.

7. Since the Applicant is in jail, his wife has filed an affidavit dated 18/06/2021, wherein it is stated that an amount of Rs.18,18,000/- invested in fixed deposits in various banks in has already been seized by the Investigating Officer vide House Search Panchnama dated 22/12/2018. As regards the two flats, which find place in the list of properties mentioend by the Investigating Officer along with his Affidavit, the wife of the Applicant has stated in the Affidavit that the Applicant will not sell the aforesaid properties or claim the fixed deposits till final disposal of the case. Since the Investigating Officer has tendered the list of properties purchased by the Applicant, it is open for the MPID Court to take appropriate steps for its attachment.

8. In any contingency, the amounts involved may be huge but the MPID Court must take steps to secure the amounts of the

depositors and since the charge-sheet is already filed on completion of investigation, the incarceration of the Applicant will serve no purpose, particularly when no apprehension is expressed by the prosecution to the effect that the Applicant is likely to be interfered with the case of the prosecution or there is any likelihood of he fleeing away of the course of justice. The release of the Applicant on bail has also become imperative since he is arrested in connection with the said offence on 21/12/2018 and, down the line, for more than two years, no charge is framed till date and going by the charge-sheet and on perusal of the list of witnesses to be examined during trial, the procedure would be a long drawn process and ultimately, it is in the interest of investors that the properties of the accused is attached and the interest of the depositors is secured. Hence, the following order:

ORDER

- (a) The Applicant – **Pandharinath Genubhau Raut** shall be released on bail in C.R. No.332 of 2018 registered with Chaturshrungi Police Station, Dist. Pune on executing P.R. bond to the extent of Rs.50,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with facts of case and shall not tamper with prosecution evidence.

- (c) The Applicant shall file an affidavit undertaking that he will not create any third party interest in the aforesaid two properties mentioned in the list appended to the Affidavit of the Investigating Officer during the pendency of the trial. Such undertaking to be filed before the MPID Court within seven days from the release of the Applicant from jail.

9. The Application is allowed in the aforestated terms.

10. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

(SMT. BHARATI DANGRE, J.)