

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3202 OF 2019

Appasaheb Trambakrao Janjire Applicant
Nashik. (At present Nashik Road
Central Prison)

Vs.

The State of Maharashtra Respondent
At the instance of Pl,
Sinnar Police Station, Nashik
and P.I. EOW Nashik Rural

Mr. Tushar Sonawane a/w Mr. Uttam Kadam for Applicant.
Ms. Sharmila S. Kaushik, A.P.P., for State-Respondent

Coram : NITIN W. SAMBRE, J.

Date : 28TH JULY, 2021

P.C.:

1. Heard.
2. The applicant is seeking regular bail in Crime No. 150 of 2017 dated 29th August, 2017, registered with Sinnar Police Station, District Nashik for the offence punishable under Sections 409, 420, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and

Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. The prosecution case against the applicant is, in the capacity of office bearer of Credit Co-operative Society, the applicant has taken decision adverse to the interest of the depositors / stakeholders in the said Credit Co-operative Society and thereby caused loss in Crores of Rupees.

4. Mr. Sonawane, learned counsel appearing for the applicant while seeking regular bail would urge that the applicant after having been arrested on 17th December, 2017 was already charge-sheeted. According to him, but for the applicant and other co-accused, rest of all accused are released on regular bail. As such, he would claim parity.

5. The further contention is that one of the accused namely Suraj Prakash Shah was ordered to be released on bail by the learned Special Court, Nashik on 30th June, 2020 that too without any condition and that being so, the applicant is entitled for parity in the said matter.

6. Mr. Sonawane would invite attention of this Court to the liability fastened on the applicant and other Directors under Section 88 (1) of Maharashtra State Co-operative Societies Act. According to him, as far as accused Suraj Prakash Shah, who is granted unconditional regular bail, is concerned, the outstanding amount shown against his name is Rs.28,57,69,751/-, whereas against the present applicant is Rs.7,51,35,188/-.

7. According to Mr. Sonawane, the applicant has given an undertaking to this Court in the form of an affidavit thereby stating that the said property shall remain attached during the pendency of the trial, so also recovery proceedings under Maharashtra State Co-operative Societies Act. The details of said property as stated in Schedule I are as under :

Sr. No.	Property details		Area	Owner Name	Ready Reckoner Value Rs.	Fare Market value as per valuation report
	Gat No.	Location				
1	70 (Part), 77/2, 80, 60B, 83/2, 81/2, Agricultural Plot	Bherdapur to Metapur Road, Near to Wasti of Surekha Janjire at Bherdapur, Taluka Shrirampur, District Ahmednagar - 413 721	18.50 Acres	Surekha Appasaheb Janjire (wife of Applicant)	57,58,000/-	1,64,20,000/-

8. Mr. Sonawane as such would urge that the applicant shall not deal with the said property and also the liquidity funds as stated in Schedule II is as under :

Sr.No.	Amount Rs.	Particulars
1	10,00,000/-	Fix Deposit in the name of Applicant's wife i.e. Surekha Appasaheb Janjire at IDBI Bank, Branch at Malunja, Taluka Shrirampur, District Ahmednagar. Account No. 0604106000009973
2	13,40,426.18	Cash balance in the saving account of the Applicant in saving account in Sinnar Nagari Sahakari Patsanstha Maryadit.
3.	23,50,000/-	Amount deposited by the Applicant's relative Mr. Rajendra Vasant Gore i.e. accused No. 19 vide order below Exh. 88 in Special MPID Case No.02/2018 dated 17/07/2018, passed by the Special Judge MPID, Nashik
4.	7,00,000/-	Amount deposited by the Applicant in cash in Special MPID Case No. 02/2018
	53,90,426.18	Total : Rupees Fifty Three Lakhs Ninety Thousand Four Hundred Twenty Six and Eighteen Paise only.

9. In addition to this, submissions of Mr. Sonawane are that having already spent about more than 3½ years behind the bar, the applicant's case also needs to be considered under Section 436-A of Code of Criminal Procedure.

10. While countering the aforesaid submissions, learned APP, Ms. Sharmila Kaushik would strenuously opposed the prayer for grant

of bail, as according to her the nature of offence is financial one and has far reaching adverse impact on the economy of the depositors / account holders and other stakeholders. According to her, the credit society, with whom the applicant was a Director is almost resulted into liquidation. She would further claim that the security as offered is also not free from all encumbrances and the applicant is not the owner of all the properties.

11. She would further claim that the applicant cannot claim parity with the other co-accused as the liability against the applicant is on much higher side and as such, she sought rejection of the application.

12. Considered rival submissions.

13. The fact remains that the applicant has offered immovable property as a security of which valuation from the Government Valuer is shown to be Rs.6,83,99,912/- and the savings in the various banks to the tune of Rs.53,90,426/-. As far as the immovable property referred

to in Schedule I is concerned, property of which the applicant is not the owner, it will be appropriate to direct the applicant to furnish an undertaking of said property owner in the Court below, dealing with the trial that the applicant or such owner shall not deal with the property mentioned therein till final decision of the Sessions trial. As far as the stakeholder being a minor, through her next guardian, the undertaking be furnished to the above effect. It shall be the duty of the applicant and also the Revenue authorities to incorporate encumbrances to that effect in the revenue record in relation to all six properties offered by the applicant.

14. The aforesaid security has prompted this Court to consider the case of the applicant to be on better footing than the security offered by co-accused i.e. accused Suraj. The fact remains that against said Suraj in Section 88 of Maharashtra Co-operative Societies Act proceedings, the outstanding shown is around Rs.28.00 Crores and he is ordered to be released unconditionally by the Sessions Court be expected and hold that the prosecution was moved in the said case of

Mr. Suraj for modification of the bail conditions for the purpose of securing the interest of stakeholders particularly in the backdrop of Section 88 of Maharashtra Co-operative Societies Act adjudication.

15. Apart from above, the fact remains that the applicant has remained inside for almost 3½ years. The applicant has already subjected to custodial interrogation and charge-sheet is already filed against him and that being so, no fruitful purpose would be served in ordering further detention of the applicant. The fact remains that the wife of the applicant is suffering from blood cancer is also brought to the notice of this Court and in that view of the matter, the Court feels that the applicant's case for grant of regular bail deserves consideration.

16. In the aforesaid backdrop, the following is passed :

ORDER

(i) The Applicant, Appasaheb Trambakrao Janjire be enlarged on bail in Crime No. 150 of 2017 dated 29th August 2017, registered with Sinnar Police Station, District Nashik, punishable under Sections

409, 420, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, on his furnishing P.R. bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(ii) The applicant shall attend the trial on each dates. On his two consecutive absence during trial, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

(iii) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall, as directed hereinabove, furnish an undertaking of the property owner, which are furnished in the form of Security before the learned Special Court, who is dealing with the trial, thereafter only the applicant will be entitled to be released on bail.

- (v) The application stands allowed in above terms
- (vi) Learned APP is directed to make available copy of the order to the Investigating Officer on the issue of modification of the bail conditions / cancellation of bail of co-accused.

(NITIN W. SAMBRE, J.)