IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 833 OF 2021

Mr. Digambar s/o Anandrao Yeole
..vs..
State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri Girish A. Kunte, Advocate for the applicant.
Shri M.J. Khan, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 05/10/2021

Heard.

2. The applicant is claiming regular bail in Crime No.425 of 2020 registered with Wathoda Police Station, District Nagpur for the offence punishable under Section 420, 409 read with 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999 (for short ‘the MPID Act’). The Applicant is arrested on 03.02.2021 and after facing custodial interrogation, he is in judicial custody. The investigation is complete and charge-sheet has been filed.

3. At the instance of report dated 24.12.2020 lodged by approved auditor, the crime was registered. The Auditor was directed to conduct the audit of

Vishwakarma Gramin Bigar Sheti Sahakari Pat Sanstha Maryadit, Kharbi, Nagpur for the period from the year 2017 to 2019. On completion of audit, he reported that the Director of the Society and other Office Bearers have not taken care about the interest of the depositors. The Office Bearers and Directors of the Society have misappropriated the total amount to the extent of Rs.2.22 crores. The Auditor reported that the applicant was working as a Manager of the Credit Society and was looking after day-to-day business thereof. He has committed several irregularities by not taking cash entries in the book. During the course of audit period, applicant has not co-operated to the Auditor. The Board of Directors has passed a resolution and transferred the due amount of Rs.2,22,80,710/- in the name of the applicant. It is alleged that the entire loss was caused by the applicant to the Society. The Auditor has also given a finding that the applicant has sanctioned illegal loans and shown fictitious loans on the fix deposit receipts. Statements of several depositors shows that the applicant has shown fictitious loans in their name. In reply-affidavit, the State has pointed about irregularities and submitted that, the applicant was directly involved in the offence.

4. Learned Counsel for the applicant would submit that the applicant was serving as a Manager having no authority to sanction the loan. He was acting on the directions and decisions of the

Chairman, Directors and other authorities of the Society. It is pointed out that the applicant himself by filing applications dated 19.08.2017 and 04.11.2018 has reported the Police about several irregularities committed by the Authority. He would submit that the Directors have misused their powers and siphoned the money. However, he has been blamed for the irregularities. The applicant has produced a copy of an inquiry conducted under Section 88 of the Maharashtra Co-operative Societies Act, 1960 to contend that there are no specific allegations. He has also produced a letter issued by the certified Auditor to contend that no serious lapses were found by the Auditor.

5. As per First Information Report, the applicant as well as Board of Directors of the Society were responsible for large scale of financial irregularities leading to the aforesaid registration of crime. The Auditor has blamed all Office Bearers including the applicant. In the Police report, the Auditor has named the applicant pointing out the irregularities committed by him. There is no dispute that the applicant was working as a Manager meaning thereby he was control day to day affairs.

6. The informant has specified the role of the applicant in the report itself. It is particularly pointed out that, the applicant was looking after day to day business of the Society. He has not taken counter

signatures of the President or Vice President on the registers. Particularly, on 03.06.2017, though the balance amount of Rs.88,51,301/- was shown, the said amount was not created in the Society account. Moreover, the Society after noting the serious lapses, passed the resolution and shown the entire due amount of Rs.2,22,80,710/- recoverable from the applicant. The State has pointed out that the audit report is exhaustive, which cast the major role of the applicant being incharge of all the affairs. Statement of some persons are recorded to show that fictitious loan papers were created in the name of the depositors and some over drafts were shown on fix deposit without the knowledge of the depositors. Learned prosecutor has produced the copies of statement of some persons to show that the applicant has obtained loan applications, however, without disbursement, appropriated loan amount. Statement of some depositors says that though they have not taken loan on fix deposit receipts, the amount is shown to be due. The entire investigation revolves around the role of the applicant, who was looking after the affair of the Society.

7. Though the applicant has filed complaints to the Police, however it reveals from first complaint dated 19.08.2017 that it was in response to the complaint lodged by the President or Vice-President against the applicant and cashier namely Suvarna Kokade. Though C.E.O. Pravin Chamat and one of the

Director namely Wasudeo Hirudkar has been protected, however, having regard to their limited role, bail was granted. Pertinent to note that both orders also indicates that the significant role was assigned to the Manager – Digambar Yeole (Applicant) which needs consideration.

8. Learned A.P.P. has also shown the register to point out that false entries have been made by pasting paper on the register. The investigation indicates the major involvement of the applicant in deflection of huge public money. Moreover, it is evident that in the year 2017, the applicant abruptly disassociates himself from the Society. He has not co-operated to the Auditor or Investigating Agency.

9. While claiming bail, learned Counsel for the applicant relied on the decision of the Hon'ble Supreme Court in case of ***Gudikanti Narasimhulu and ors. vs. Public Prosecutor, High Court of Andhra Pradesh (Criminal Misc. Petition No. 1443 of 1997 in Criminal Appeal No.90 of 1977)***, wherein general criteria for grant or refusal of bail, has been laid down. While considering the application for bail amongst other factors, the nature of accusation, the severity of punishment, the role played by the accused, *prima facie* satisfaction in support of allegation and other related circumstances, need consideration. *Prima facie,* there is ample material against the applicant about his crucial role in

disbursement of loan, creating false loan proposals, over drafts without applications, non-deposit of money, etc.

10. Having regard to the seriousness of offence, crucial role of the applicant and involvement of huge public money, the applicant is not entitled for release on bail, hence, rejected.

JUDGE

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