

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 ANTICIPATORY BAIL APPLICATION NO.59 OF 2022

Jodhasingh Shankarsingh Gahlot Thakur .. Applicant

Versus

The State Of Maharashtra .. Respondent

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Advocate for the Applicant : Mr. Hemantkumar F. Pawar
APP for the Respondent / State : Mr. S.W. Mundhe

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CORAM : MANGESH S. PATIL, J.

DATE : 23-02-2022

PER COURT :

. This is a successive application under Section 438 of the Code of Criminal Procedure seeking bail in anticipation of arrest in connection with Crime No.337 of 2020 registered with Itwara Police Station, Nanded, District Nanded for the offences punishable under Sections 405, 408, 409, 198, 199, 200, 420, 464, 468, 471 read with Section 34 of the Indian Penal Code.

2. It is being alleged that the applicant was the Vice President of the charitable trust and he along with the other

office bearers had indulged in rampant misappropriations to the tune of Rs.47,09,575/- during their tenure in the office.

3. According to the learned advocate for the applicant, since after rejection of his earlier application on 09-04-2021, the investigation has been completed and the charge-sheet has been filed. He takes me through the papers of the investigation to demonstrate that the entire evidence that has been collected by the Investigating Officer shows involvement of other office bearers except the applicant. Merely because he was the Vice-President at the material time, it is being suspected that even he was involved in the misappropriation. He is a practising advocate and ready to co-operate the Investigating Officer. Following the guidelines laid down by the Supreme Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Another in Special Leave to Appeal (Crl.) No.5191 of 2021 dated 07-10-2021**, he is entitled to get the bail.

4. The learned APP strongly opposes the application. He would submit that this is a successive application, earlier having been rejected more than 10 months back. Though the applicant claims to be a practising advocate, he has been successfully avoiding arrest.

Admittedly, he was the office bearer inasmuch as he was holding the post of Vice President of the Public Charitable Trust. He is not a layman. Evidence collected by the Investigating Officer clearly demonstrates that there were rampant instances of misappropriation duly certified by a Chartered Accountant. It would be naive to believe that the applicant was innocent and unmindful of what was going on while he was holding the post of Vice-President of the Public Charitable Trust. The learned APP would further submit that mere filing of the charge-sheet is not a material change in the circumstance. Since rejection of his earlier application there is no material change. The application be rejected in the light of the decision of the Supreme Court in the matter of **G.R. Ananda Babu Vs. State of Tamil Nadu, 2021 (1) Crimes. 135 SC.**

5. It is indeed a successive application moved after 10 months of the rejection of the first application. As was pointed in the order dated 09-04-2021 there were several instances noticed by the auditor to justify his conclusion about there being misappropriation. The charge-sheet has been filed which at various places corroborates his inference in the form of the statements of the tenants who had paid the deposits but were never issued any receipts or a tenant who paid money to vacate the premises of the trust but it has not been

accounted for in the accounts of the trust etc. But then, keeping into the account the fact that the applicant is a practising advocate and is not a layman, who was holding the post of Vice President, it is very difficult to believe at this juncture that he was unawares of what was going on in the office of the Public Charitable Trust particularly when not only the President but Secretary and Treasurer have been involved in the misappropriation as has been mentioned in the charge-sheet and as is stated by the auditor, as also the witnesses.

6. To repeat, the mode of misappropriation *inter alia* involves rampant payments having been made on behalf of the trust without any receipt or voucher forthcoming. If such is the state-of-affairs, by following the guidelines laid down by the Supreme Court in the case of **G.R. Ananda Babu** (supra), it being a successive application without there being material change in the circumstance, in my considered view, the applicant is not entitled to get any benefit of the decision in case of **Satender Kumar Antil** (supra). The application is therefore liable to be rejected and is accordingly rejected.

7. The learned advocate for the applicant would then submit that the other accused i.e. the office bearers were already

arrested and have been released on regular bail. I am afraid, this cannot be a legitimate ground to reconsider the request for anticipatory bail, which has already been rejected.

(MANGESH S. PATIL)
JUDGE

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Gajanan