IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 ANTICIPATORY BAIL APPLICATION NO.553 OF 2022

BABURAO ANANTA MENDKHAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Karpe Rahul R.
APP for Respondent-State : Mr. V. M. Kagne.
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CORAM : S. G. MEHARE, J.
DATE : 23.06.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. Learned counsel for the applicant has vehemently argued that the alleged misappropriation of the amount was deducted in re-audit. The audit was regularly done every year and at no point of time, many misappropriation of money was found. He would point out that the period of the offence is from the year 2009 to 2017. There was no reason to have re-audit. Once, the audit is made, how the account is re-audited after such a long period. The clock cannot be reversed. The applicant cannot be held responsible alone since there was a Managing Body. None of the depositors came forward alleging the

misappropriation of their deposits. So, he referred to the provisions of the Maharashtra State Co-operative Societies Act and argue that the re-audit is impermissible after such a long period. The incident is too old. The applicant has made a scapegoat. He has not committed any offence as alleged. Therefore, he may be released on bail.

3. Per contra, learned APP has strongly opposed the application. He has contended that huge amount of Rs.1,23,12,375.02/- has been misappropriated. Preferring to the contents of the FIR, he would point out in a re-audit that the amount recovered from the borrowers was not deposited and directly misappropriated. The amount is misappropriated by reducing the amount of the cash in hand without having the signature of the concerned on the vouchers. The amount was shown recovered in the register, but not deposited in the bank. A false entries have been made in the accounts. The applicant was a Secretary for the said period. There is no bar to re-audit the account. Huge amount has been misappropriated.

4. The learned APP has rightly pointed out by relying on the case of ***Nimmagadda Prasad Vs. Central Bureau of Investigation [2013 AIR (SC) 2821]***, that the economic offence having deep rooted conspiracies and involving huge loss of the

public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country. Even the case is more serious, the applicant is seen involved in misappropriating such huge amount time and again. It reflects that he is in habit to misappropriate the public money. The offence is apparently serious and grave, the huge amount of Rs.1,23,12,375.02/- had been misappropriated. The amount is to be recovered, therefore, the prosecution has a strong case of custodial interrogation.

5. The FIR itself reveals that the auditor find the different amounts of misappropriation under different heads, which have been collected from the borrowers was not deposited. Some false entries were made and documents were also forged to misappropriate the money. Though the learned counsel for the applicant argue that the re-audit after such a long period is impermissible, but it could not point out that re-audit is completely barred. The offence is apparently serious. Public money has been misappropriated. The applicant being the Secretary was the Administration Head. He was dealing with the cash transaction of the society. Same type of crime misappropriating the amount of Rs.79,40,829/- is at discredit

of the applicant, registered at Police Station Jamkhed.

6. Learned APP relied on the case of ***Nimmagadda Prasad Vs. Central Bureau of Investigation [2013 AIR (SC) 2821]*** and would submit that this is an economic offence and that affected the financial health of the society. Hence, the custodial interrogation is required.

7. For the reasons stated above, the application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-