IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 836 OF 2022

Dilip Shankarrao Apet ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

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Mr. V.D. Sapkal, Senior Advocate i/b Mr. S.R. Sapkal, Advocate for applicant
Mr. A.V. Deshmukh, A.P.P. for respondent - State

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CORAM : R.G. AVACHAT, J.
RESERVED ON : 29th SEPTEMBER, 2022
PRONOUNCED ON : 11th OCTOBER, 2022

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 33 of 2018 registered with Pathari Police Station, Dist. Parbhani for the offences punishable under Sections 420, 409, 467 and 120-B read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by one Yashwantrao Jawalekar on 16th February, 2018. He is resident of Ulhas Nagar, Pathari, Dist. Parbhani. It is his case that a branch of "Shubh Kalyan Multi State Co-operative Credit Society Ltd." ("Credit Society") was opened/established at Pathari by its President/Chairman/Executive Director – Diliprao Apet (applicant herein) on 25th February, 2014. When the said branch was opened, a wide spread advertisement was made in that regard with introduction of various investment/deposit schemes. It offered the investors/depositors lucrative rate of interest (from 13% to 18% p.a.) even for short-term deposits. The informant fell prey to the offer of high returns. He, therefore, invested a sum of Rs.3,67,000/- in various deposit schemes of the credit society in February 2014 itself. According to him, all was well until March 2017. When he was in need of money, he approached the Pathari Branch of the credit society for return of money. Vaibhav Kulkarni (co-accused) – Manager of Pathari Branch informed him that the Branch has been closed. He asked the informant to approach the head office. The informant and other depositors, therefore, went to the head office of the credit society at Kalamb, Dist. Osmanabad to find the same to have been closed down. The applicant and other members of the Board of Directors of the credit society became incommunicado.

4. In the F.I.R., the names of depositors with the figures of the amount deposited by them with the concerned branch has been given. As per

the averments in the F.I.R., thirty-four depositors invested a sum of Rs.1,44,01,740/-. The applicant and co-accused are alleged to have misappropriated the said amount. On investigation, the charge-sheet has been filed.

5. Learned senior counsel for the applicant would submit that the applicant is in jail since 2016 and in the present crime since 14th March, 2019, i.e. little over four and half years in the present crime. He would further submit that except the present applicant, none has been arrested. The applicant owned a private sugar factory with a distillery. Pursuant to the orders passed by this Court in writ petitions filed by the banks which had lent amount to the sugar factory, the factory has been sold for over Rs.55 crores. The said amount has been in deposit with this Court. There was a sugar stock worth Rs.14 crores pledged with the concerned banks. The same is also available as security. He would further submit that all immovable properties of the sugar factory, credit society and personal properties of himself and his family members have been attached. Learned counsel meant to say that nothing has remained with the applicant. The applicant is sixty-nine years of age. It will take long for commencement and conclusion of trial. He, therefore, urged for grant of the application.

6. Learned A.P.P. would, on the other hand, submit that it is an economic offence of high magnitude. The applicant is an accused in over

twenty similar crimes. The amount fetched on sale of sugar factory is very less than the amount due from the credit society and sugar factory as well. The applicant appears to have siphoned off huge amount. He might have invested most of the amount in real estate. The same has not yet been traced out. According to him, the amount received on sale of sugar factory may be utilised in clearing the debts of the sugar factory. Learned A.P.P. expressed strong reservation for grant of bail to the applicant.

7. Considered the submissions advanced. Applicant was the Chairman/President/Executive Director of the credit society. He opened it's branch at Pathari. The credit society made widespread advertisement of it's various deposit schemes wherein high rate of interest was offered as return even on short-term investments. The informant and others invested their hard earned money. The amount invested with the Branch at Pathari is Rs.1,44,01,740/-. The credit society all of a sudden was closed down. The applicant and other officials became incommunicado. The applicant owned a private sugar factory. It appears that he had diverted the funds of credit society towards his sugar factory and for his personal investments. Other twenty similar crimes have been registered against him by various depositors/investors. The applicant is in jail for little over four and half years in the present crime. Admittedly, all the immovable properties of his sugar factory, credit society and his personal properties have been attached. True,

that his liabilities are more than the assets. Prima facie, the applicant's involvement in the economic offence of high magnitude is writ large. Learned counsel for the applicant has relied on the order of Apex Court in Petition for Special Leave to Appeal (Crl.) No. 10065 of 2021 (Deepak Sakharam Kulkarni Vs. State of Maharashtra) granting bail to the applicant therein, who is a Pune based promoter and developer. The present applicant is sixty-nine years of age. He is in jail for little over four and half years in connection with this crime.

8. On investigation, the charge-sheet has been filed. It is not known as to why all other co-accused have not been arrested. Be that as it may. This Court is inclined to grant the applicant bail for the reason that he is in jail for little over four and half years in the present crime. All his personal properties as well as that of sugar factory and credit society have been attached. On investigation, the charge-sheet has been filed. It will take time for commencement and conclusion of trial. He is not likely to come out of jail immediately since he has been behind the bars in connection with a few more similar crimes. Needless to mention, the bail application, if any, in connection with those crimes would be decided on their own merits uninfluenced by the order granting bail in the present crime.

9. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released on bail, in connection with Crime No. 33 of 2018 registered with Pathari Police Station, Dist. Parbhani for the offences punishable under Sections 420, 409, 467 and 120-B read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, on executing P.R. Bond in the sum of Rs.10,00,000/- (Rupees Ten Lakhs) with one surety in the like amount.

(III) The applicant shall surrender his passport and shall not leave State of Maharashtra without permission of the trial Court.

(IV) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

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