

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1322 OF 2021

BHARAT NAGORAO MISAL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Sidhesh V. Jadhwar
APP for Respondent : Ms. V. S. Choudhari
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CORAM : S. G. MEHARE, J.

DATE : 07-10-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. It has been alleged against the applicant that he was a Director of Samajik Parivartan Nagari Sahakari Patsanstha Maryadit, Majalgaon, District Beed. The wife of the complainant deposited Rs.1,00,000/- in the Patsanstha. However, he learnt that the said amount was not deposited, but all the Directors shared it and used the money to purchase property in their name.
3. The learned counsel for the applicant would submit that in the similar Crime No. 117 of 2018 registered by police station Majalgaon. He was in jail for three months. However, he was not transferred in other crimes.
4. The learned counsel for the applicant would submit that

similar offences have been registered on the complaint of different depositor. The police had an opportunity to make the investigation in detail. The police had an opportunity to seize entire material and find out how much amount of the depositors have been misappropriated. He would submit that similarly situated Directors have been released on anticipatory bail by this Court on 07.10.2021, in A.B.A.No. 1070 of 2021 and A.B.A. No.1072 of 2021. The Court has taken a view that the accused /applicants were in the custody for a long period. However, the custody of the applicants was not sought when they were behind bar for the other crime. It has also been observed that the applicant in the said case had undergone for substantial time in other cases. The first information report does not reveal the role of the applicant. Hence, anticipatory bail was granted.

5. The learned counsel for the applicant would argue that the applicant never insisted the complainant to deposit the money. He has no control over day to day business of the Patsanstha. He has played no role in alleged misappropriation of the depositor's money. The entire record was lying with the police and audit report is awaited. There was an irregularity in the business of Patsanstha, but for such irregularity, the applicant cannot be sent behind bar.

6. The learned A.P.P. has fairly conceded that the other co-accused has been released in other crimes either on regular bail or

anticipatory bail. The necessary papers have been seized. The crimes have been registered one after another as the depositor lodges the report. However, the offence is serious. Therefore, custodial interrogation is essential.

7. Perused the papers. The business of the Patsanstha appears to have collapsed and the Patsanstha failed to return money of the depositors in time. The applicant was behind the bar for more than three months. The police had an opportunity to seek the custody in the said crime. Be that as it may, every time the allegations against the Directors were similar. Relevant documents have been seized by the police and audit report of Patsanstha is awaited. Therefore, nothing is to be recovered from the applicant. It would be a bare formality to arrest the applicant. Considering the factual aspects of the case, the Court is of the view that the applicant deserves to be released on anticipatory bail. Hence, the following order :-

- i) Application is allowed.
- ii) In the event of arrest, applicant Bharat s/o. Nagorao Misal, be released on bail, on furnishing PB and SB of Rs.25,000/-, with one solvent surety of the like amount, in C.R.No.422 of 2018 registered with Police Station Majalgaon, District Beed, for the offences punishable under Section 420, 409, 406, 120B read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act.

(S. G. MEHARE)
JUDGE