IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1562 OF 2021

SNAJAY S/O SUKHDEV PANDIT
VERSUS
THE STATE OF MAHARASHTRA
…..
Advocate for Applicant : Mr. R. R. Karpe
APP for Respondent-State : Mr. V. M. Kagne
…..

WITH
ANTICIPATORY BAIL APPLICATION NO.1563 OF 2021

ASHOK S/O RABHAJI MOTE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
…..
Advocate for Applicant : Mr. R. R. Karpe
APP for Respondent-State : Mr. V. M. Kagne
…..

CORAM : SMT.VIBHA KANKANWADI, J.

Date of Reserving the Order : 03-02-2022

Date of Pronouncing the Order : 04-04-2022

ORDER :

1. Both the applicants are apprehending their arrest in connection with Crime No.09 of 2021, dated 19-01-2021, registered with Shanishinganapur, District Ahmednagar, for the offence punishable under Section 3, 4, 5, 6, 7, 8, 13 of the Maharashtra Protection of

Interest of the Depositors (In Financial Establishments) Act, 1999 r.w. Section 402, 406, 408, 409, 417, 418, 419, 420, 421, 422, 423, 424, 426, 427, 465, 466, 468, 471, 474, 477, 477-A, 120-B, 107, 108, 109, 110, 111, 504, 506 r.w.34 of Indian Penal Code.

2. Heard learned Advocate Mr. R. R. Karpe for applicants and learned APP Mr. V. M. Kagne for respondent-State.

3. The learned Advocate for the applicants has submitted that the FIR is the outcome of the order passed under Section 156 (3) of Cr.P.C. by learned Special Judge under MPID, Newasa in Cri.Misc. Appln. No.12 of 2020, dated 13-01-2020. It has been lodged by one Balasaheb Dhondiram Phatke. He had deposited amount of Rs.60,000/- in fixed deposit with Bhairavnath Gramin Bigar Sheti Sahakari Patsanstha Limited. The maturity of the said fixed deposit was on 01-03-2018 and he was supposed to get an amount of Rs.74,180/-. It is alleged that he was not given the amount and illegally certain documents have been fabricated and certain original receipts were forcibly kept in the possession of the employees of the Pastsanstha and some were torn. Threats were given to the informant when he had demanded the amount. Perusal of the said FIR would show that all the employees have been falsely implicated

and basically the nature of the transaction appears to be civil in nature. There is no criminality involved. Section 3 of the MPID Act of 1999 will not be applicable to the Patsanstha as Section 2 (D) of MPID Act excludes co-operative societies controlled by the State Government. Audit has been conducted of the Patsanstha and there was no illegality found by the auditor. Handsome interest is given to the depositors/members of the Patsanstha, however, due to inflation and other economic reasons there was some sort of set back to the business but the Patsanstha had no intention to misappropriate the amount of its depositors. Present applicant had in fact tendered his resignation on 22-07-2013 and in the meeting of the general body held on 07-09-2013 his resignation has been accepted. Documents have been produced to that effect. Therefore, when the informant had deposited the said amount with the said Patsanstha, applicant was not the employee, still his name has been inserted. The learned Advocate for the applicant has relied on the order passed by this Court in ABA No.1595 of 2019 and companion matter on 20-01-2020, wherein under the similar circumstances when the audit report only revealed rampant mismanagement in the affairs of the society, anticipatory bail was granted. Similarly in ABA No.902 of 2021 this Court has granted anticipatory bail to the applicants therein on 07-09-2021 as there was no finding of misappropriation of the amount but only allegations about mismanagement by the board of directors.

4. Per contra, the learned APP has strongly opposed the application and submitted that both the applicants have taken active part and a proper Special Court has taken note of the private complaint that was lodged and then sent the matter for investigation under Section 156 (3) of Cr.P.C. Definitely, the allegations were considered by the concerned Court. The custodial interrogation of the applicants is necessary.

5. At the outset, it is to be noted that all those persons who were allegedly working as directors as well as employees till 2020, have been made as accused in this case. It is against 27 persons. When in fact the informant had deposited amount of Rs.60,000/- on 05-05-2016. No specific role is attributed to each of the accused who had given false information to the informant and thereby induced him to deposit his amount in the fixed deposits with the Patsanstha, has not been disclosed. According to him, the manipulations have been done in the amount which was kept as fixed deposit but he has not stated what the alleged forged document states. How many

fixed deposits he had created is not clear, but it appears that when he had created fixed deposit of amount of Rs.60,000/- on 05-05-2016, it was singular, and then it appears that in general it has been alleged that the original receipts have been destroyed or kept in possession of the accused. He was not certain as to whether his fixed deposit has been destroyed or then manipulated. The applicants have produced audit report by a certified auditor for the period between 01-04-2017 to 31-03-2018 and the summary of the same does not say that there is any misappropriation. Definitely, certain acts of mismanagement appears to have been done but it is in respect of the salary paid to the employees. Further, part I of the audit report specifically states that there is no fraudulent activity noted, nor there are signs of misutilization of funds and properties, misapplication of funds, manipulation of accounts, falsification of accounts. Now, it is to be noted that the informant has not got his amount, and therefore, he could have filed the suit for recovery of the amount. Applicant Sanjay Pandit has produced on record the documents to show that his resignation was accepted by the general body meeting. The applicants in ABA No.1563 of 2021 appear to be the directors of the Patsanstha. Therefore, taking into consideration all these aspects, the physical custody of the applicants appear to be not required for the purpose of investigation. The interim protection granted earlier by this Court deserve to be confirmed, accordingly it is confirmed. Hence, following order.

ORDER

1) Applications stand allowed.

2) The interim protection granted by this Court on 22-12-2021 to the applicants is hereby confirmed. In other words, in the event of the arrest of the applicants Sanjay s/o Sukhdev Pandit, Ashok s/o Rabhaji Mote and Dipak s/o Chandrakant Ghadge, in connection with Crime No.9 of 2021, registered with Shanishinganapur, District Ahmednagar, for the offences punishable under Section 3, 4, 5, 6, 7, 8, 13 of the Maharashtra Protection of Interest of the Depositors (In Financial Establishments) Act, 1999 r.w. Section 402, 406, 408, 409, 417, 418, 419, 420, 421, 422, 423, 424, 426, 427, 465, 466, 468, 471, 474, 477, 477-A, 120-B, 107, 108, 109, 110, 111, 504, 506 r.w.34 of Indian Penal Code, they be released on PR Bond of Rs.20,000/- each, with one or more sureties in the like amount.

3) They shall not tamper with the evidence of the prosecution in any manner.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.