

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.239 OF 2022

DILIP S/ LAHUDAS PHAD
VERSUS
THE STATE F MAHARASHTRA

.....

Senior Counsel for Applicant : Mr. S. J. Salunke
APP for Respondent-State : Mr. B. V. Virdhe

.....

WITH

ANTICIPATORY BAIL APPLICATION NO.1579 OF 2021

DATTU DAGADU APET AND ANOTHER
VERSUS
THE STATE F MAHARASHTRA

.....

Senior Counsel for Applicant : Mr. S. S. Thombre
APP for Respondent-State : Mr. B. V. Virdhe

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving the Order :
15-03-2022**

**Date of Pronouncing the Order :
06-05-2022**

ORDER :

1. All the applicants are apprehending their arrest in connection with Crime No.233 of 2021, dated 10-10-2021, registered with Parli (Rural) Police Station, District Beed, for the offence punishable under Sections 420, 467, 468, 471, 409, 406 r.w.34 of IPC.
2. Heard learned Advocate Mr. S. J. Salunke, learned Advocate Mr.

S. S. Thombre for applicants and learned APP Mr. B. V. Virdhe for respondent-State.

3. It has been submitted on behalf of the applicants that the investigation is over and charge-sheet has been filed. Therefore, the custodial interrogation of the applicants is not required for the purpose of investigation. Accused No.1 Prakash @ Baban Vithal Apet is the sole person who has committed the offence. He came to be arrested on 11-10-2021. It has been alleged by the informant Harischandra Bhagwan Phad who is stated to be the director of Kai.Dnyanoba Nivrutti Phad, Krushi Nivishtha Sahakari Sanstha Maryadit, Dharmapuri, Taluka Parli District Beed. The said society was appointed for purchase of grains at minimum support price (MSP) by Maharashtra State Co-operative Marketing Federation, Mumbai. Said Prakash Apet was appointed as Manager on 30-10-2018. Login ID and password was required to be registered in the names of farmers and for the purchase of agricultural produce and it was provided to the informant. It is then stated that accused No.1 was assisted by accused No.2, 3 and 4. They in collusion with each other and keeping the society in dark, issued bogus receipts in respect of purchase of agricultural produce and it is stated that all

the accused persons have misappropriated the amount of MSP received for the agriculturists. The inquiry is also held by the District Deputy Registrar Co-operative Societies, Beed. The applicants were called before the said inquiry and they have given their statements. Thus, whenever there was inquiry, the applicants have co-operated. The documents like signature verification of the applicants and the documents received from the office of Assistant Registrar, Co-operative Societies, would indicate that those signatures are bogus. Applicants never signed those documents. The Chairman and the Secretary of the society have committed forgery for which the applicants are unaware about. In fact, the applicants themselves are victims of the crime. Their custodial interrogation is not necessary. The applicants have produced the copy of the charge-sheet along with this application and it is stated that the applicants have been shown as absconding when in fact they are not. The applicants are ready to abide by the terms of the bail.

4. The learned APP has strongly opposed the application and submitted that applicant Dilip Phad is the member of the society and has also taken part in misappropriating the amount as well as

cheating the farmers. Poor farmers have been duped in this case and the misappropriated amount stands at about Rs.19,88,738=75 Paise. The offence has been committed in a designed way and the applicants are absconding. In the charge-sheet itself the Investigating Officer has stated that time and again he had gone to the house of the applicants and made inquiry with their relatives, but no proper information is supplied. This is only with an intention to avoid the arrest. In view of the fact that accused No.1 was arrested, the charge-sheet came to be filed on the basis of the whatever investigation was done up till then. The investigation is incomplete and the Investigating Officer can further undertake the investigation under Section 173 (8) of Cr.P.C.

5. At the outset, it can be seen that the offence appears to have been committed in a designed way. The society was formed which is stated to be for a particular object. The Assistant Registrar, Co-operative Societies, appointed the said society of which the applicants are members for purchase of grains at minimum support price. With that price, to be paid to the farmers who had grown green gram (Moong), being the members of the society they were supposed to take part in the working of the society and cannot leave

it to the Chairman. It has been transpired that bogus receipts have been given to the farmers and the ultimate sufferer is the farmer who has been duped though he takes the efforts to raise the crops. When a designed economic offence has been committed, then this Court would be slow to grant extraordinary discretionary relief under Section 438 of Cr.P.C. in view of the decision in *P. Chidambaram vs. Directorate of Enforcement*, reported in (2019) 9 SCC 24. So also when it is specifically mentioned by the Investigating Officer while filing the charge-sheet that he had gone to the places of the applicants and made inquiry about the whereabouts of the applicants with their relatives and the relatives had not co-operated with the police, then definitely it would be with the intention to avoid the arrest. On the analogy that has been laid down in *Lavesh Vs. State (NCT of Delhi)*, reported in 2012 (8) SCC 730, the discretionary relief cannot be given to an accused who is absconding. On these grounds, the applicants are not entitled to get the relief prayed. Hence, the applications stand rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.