IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1291 OF 2021

Mahesh Laxman Vadagavi and others … Applicants
Vs.
State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.2811 OF 2021

Vishwas Vitthalrao Barge … Intervenor

In the matter between:

Mahesh Laxman Vadagavi and others … Applicants
Vs.
State of Maharashtra … Respondent

IN
ANTICIPATORY BAIL APPLICATION NO.1291 OF 2021

Mr. Shreyas Barsawade for Applicants.
Ms. Geeta P. Mulekar, APP for Respondent-State.
Ms. M. A. Gowalani for Intervenor.

CORAM : NITIN W. SAMBRE, J.
DATE : SEPTEMBER 27, 2022

P.C. :

Heard.

2. Divya Datta Digambar Nagari Patsanstha Maryadit, Satara, a co-operative credit society underwent an audit for the period from 01.04.2011 to 31.03.2016 pursuant to the direction of the District Deputy Registrar, Co-operative Society, Satara.

3. In the audit report, the auditor has specified that the fraudulent transactions to the extent of Rs.30 crores are conducted by the directors, office bearers and the applicants. As such, offence in question came to be registered.

4. The contentions of counsel for the applicants are, in the audit report, the special auditor has mentioned that applicant Nos.1 and 2

were neither the elected directors nor the nominated directors of the said co-operative credit society. According to him, even applicant No.3 is wrongly mentioned as Devendra instead of Dilip. As such, he would urge that, the audit report itself is not implicating the applicant in the commission of offence in question.

4.1. His further contentions are, the applicants have raised the defence of not signing the resolutions whereby the cash credit facility and loans were sanctioned and released in favour of such parties. So as to substantiate his claim, he has placed on record opinion of handwriting expert. As such, he would urge that there is hardly any material to infer the *prima facie* involvement of the applicants in the commission of offence in question, which is punishable under Sections 406, 409, 420, 465, 467, 471 r/w. Section 34 IPC. He would further urge that having regard to the substance in the defence raised by the applicants, this Court has already granted interim protection in favour of the applicants.

5. Learned APP would oppose the prayer and would urge that pursuant to the ad-interim order granted in favour of the applicants on 14.06.2021, opinion of the State Hand-writing Examiner was sought. It is claimed that the State Hand-writing Examiner has given an adverse opinion to the interest of the applicants as the applicants' signatures / handwriting was found on the resolutions whereby loans to the tune of crores of rupees were sanctioned and disbursed illegally. It is further brought to my notice that because of the mismanagement and embezzlement of funds of the co-operative credit society, the beneficiaries *viz*., shareholders / depositors were unable to get back their money. As such, there is enough material to infer involvement of the applicants in the offence in question.

6. I have perused the audit report given by the special auditor and the contents of the FIR. The audit is for the period from 01.04.2011 to 31.03.2016. It appears from the audit report that as on 31.03.2016, total liability of the co-operative credit society towards its depositors was

Rs.17,65,00,285/-; whereas the amount of loan disbursed was Rs.17,40,71,885/-, out of which, an amount of Rs.8,43,38,839/- was disbursed without there being any collateral security. As such, on the date of audit, the amount recoverable was to the tune of Rs.12,36,15,344/-. The nature of loan transactions, which were duly carried out under the signatures of the applicants, was to give cash credit facility without there being any collateral security and disbursement of illegal loans despite the fact that loans were already into non-performing asset category. Though counsel for the applicants has claimed that the audit report does not implicate the applicants in the commission of offence in question, however, the said contention is without any basis. Rather, the report of the auditor speaks that the applicants were neither the elected directors nor the nominated directors but still they have illegally participated in the proceedings of the co-operative credit society with the personal agenda of defrauding the said society by disbursing loan amounts illegally.

7. The claim put forth by the applicants in the form of defence that they are not signatories to the resolutions whereby loans to the tune of crores of rupees were sanctioned and disbursed illegally, perhaps, has prompted this Court to grant ad-interim relief. However, investigating agency has carried out the investigation where the signatures and handwriting of the applicants were found on the resolutions, which are passed in favour of the parties who have availed cash credit and the loan facilities. The report of the State Hand-writing Examiner specifically mentions that the handwriting of the applicants matches with the handwriting on the resolutions thereby sanctioning and disbursing the loans. As such, *prima facie,* involvement of the applicants in the serious economic offence thereby defrauding the depositors and the shareholders of the co-operative credit society can be inferred. Such act on the part of the applicants does not warrant any protection from this Court.

8. The defence put forth by the applicants in the present application can be gone into at the stage of trial. However, the same is *prima facie* not significant for granting protection in their favour. That being so, no case for grant of pre-arrest bail is made out. Application fails and as such, stands rejected.

9. As a sequel of above, pending application also stands disposed of.

(NITIN W. SAMBRE, J.)

Minal Parab