

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 6 OF 2022

**SNEHA
NITIN
CHAVAN**

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Pankaj Subhash Parakh

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Sudeep Pasbola i/b Pratik Kalantri for the Applicant.

Mr. S.R. Agarkar, APP for the Respondent/State.

PI Ashok Meshram, EOW Nashik (Rural) present.

CORAM : C.V. BHADANG, J.

**DATE : 25 JANUARY 2022
(Through Video Conferencing)**

P.C.

1. The Applicant, apprehending arrest in connection with investigation of Crime No. 442 of 2021 of Police Station Yeola, District Nashik under Section 406, 408, 409 and 420 read with Section 34 of IPC and Section 146 and 147 of the Maharashtra Co-operative Societies Act, is seeking anticipatory bail.

2. The aforesaid offence is registered on the basis of the complaint lodged by Mr. Pratap Padavi, who is an Assistant Registrar of Co-operative Societies at Yeola and appointed as Administrator of Subhash Chandraji Parakh Urban Co-operative

Credit Society Ltd, Yeola ('the said Society') of which the Applicant is said to be one of the Directors. The Board of Directors of the said Society was elected for the year 2014-15 to 2019-20. As per the first informant, there were several irregularities noticed in the management of the said Society in which loan was disbursed to about 110 borrowers total amounting to Rs.8,59,61,738/- on the basis of the fixed deposits receipts (FDR). It was found that several such applications for loan were not fully filled up and out of the borrowers, 93 borrowers had no deposits with the said Society. There were other financial irregularities noticed. Further, according to the prosecution, the total amount involved in the misappropriation is to the tune of Rs.21,96,99,850/- and the amount is likely to increase on further investigation. On the basis of such a complaint lodged, the offence is registered which is under investigation.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

4. The learned counsel for the Applicant has raised two grounds. First is that the Applicant has no concern with the alleged misappropriation, as the Applicant has resigned as a Director of the Society in the year 2016. It is submitted that the said misappropriation is done by co-accused Ajay Jain and the Chairman Yogesh Soni. Secondly, it is submitted that Applicant

is suffering from heart disease and kidney malfunction and therefore, considering the health condition of the Applicant, he may be granted pre-arrest bail as the Applicant is ready and willing to co-operate with the investigating agency.

5. The learned APP has pointed out that the offence is serious, involving a large scale financial misappropriation involving several borrowers and considering the nature and magnitude of the offence, proper investigation is required to be done for which the custodial interrogation of the Applicant is necessary. It is submitted that there is no record produced to show that Applicant has resigned as a Director in the year 2016.

6. I have carefully considered the rival circumstances and the submissions made. A specific query was made to the learned counsel for the Applicant repeatedly to point out and to produce a copy of the resignation and the copy of the resolution passed by the Society accepting the same and whether such factum of the alleged acceptance of the resignation was duly communicated to the Authorities under the Maharashtra Co-operative Societies Act. However, no such copy of the resignation or a resolution or communication with the concerned Authority has been produced on record or pointed out. The learned counsel made an attempt to point out some observations in a Audit Report to claim that the Applicant has resigned. However, prima facie it appears that,

that was on the basis of the statement of the Applicant and there is no independent inquiry conducted which is pointed out at this stage to show that there was such resignation which was duly accepted and communicated to the concerned authorities.

7. The learned Sessions Judge while refusing to grant protection has observed that the financial irregularities are from 01.01.2015 and thus, even assuming that Applicant had resigned in the year 2016, the irregularities would form part of the period during which the Applicant was a Director.

8. Be that as it may. In view of the fact that nothing has been produced or pointed out to show that the Applicant had duly resigned from the Directorship, the contention cannot be accepted.

9. Coming to the medical ground, the Applicant is shown to be suffering from ischemic heart disease and chronic kidney disease. Although some documents were produced already on record, a statement was made on behalf of the Applicant that one of the kidneys of the Applicant was removed. However, there was no such medical report available on record and hence, time was sought on 20.01.2022 and the matter was kept on 21.01.2022. A certificate dated 20.01.2022 is sought to be

produced to show that the Applicant is suffering from ischemic heart disease and chronic kidney disease.

10. In cases of the present nature, the Court has to delicately balance the conflicting considerations of personal liberty and any special circumstances, pointed out in favour of the Applicant-accused and the requirement of a proper investigation in the larger interest of the society. In my considered view at this stage, the proper investigation of the matter is of paramount consideration. The report of the informant shows that even the relevant record of the credit society is missing. I do not find that looking to the magnitude and the nature of the offence, protection can be granted to the Applicant.

11. Needless to mention that the Investigating Officer shall ensure that the Applicant gets all the medical aid and assistance as may be required in the event, the Applicant is arrested and taken into custody. It will also be open to the Applicant to seek such orders for medical aid from the Magistrate and if such an application is made, the Magistrate shall pass appropriate orders in accordance with law.

12. In the result, the Criminal application is rejected.

(C.V. BHADANG, J.)