

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.319 OF 2022

Prakash Kondaji Labhade ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Sachin S. Gite for the Applicant.

Mr.Y.Y. Dabke, APP for the Respondent –State.

CORAM : C.V. BHADANG, J.

DATE : 8 FEBRUARY 2022

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SANTOSH
KAMBLE**

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Date: 2022.02.08
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P.C.

. By this Application, the Applicant who is Vice-Chairman of Durga Urban Credit Co-operative Society Limited, is seeking anticipatory bail in connection with the investigation of Crime No.158 of 2021 of Adgaon Police Station, Nashik, under Section 420, 409, 468 read with Section 34 of Indian Penal Code.

2. I have heard the learned counsel for the parties.

3. Mr.Gite, the learned counsel for the Applicant has submitted that the only allegation against the Applicant is that the Applicant had obtained a loan of Rs.3,00,045/- in his own name and Rs. 3,63,197/- in the name of his wife and without

repaying the same the Applicant by misuse of his position as a Vice-Chairman obtained false and fabricated no dues certificate from the society. Mr.Gite, the learned counsel for the Applicant submitted that the loan amount has been repaid with interest. However, a specific query was made to the learned counsel as to whether the Applicants have a receipt or a bank entry evidencing in such payment to the Society to which the answer is negative, except the no dues certificate dated 13 November 2013. However, precisely the prosecution case is that without repayment of the loan amount a false and fabricated no dues certificate has been obtained. In such circumstances, the no dues certificate cannot be a proof of the repayment of the loan. The Credit Society was bound to issue a receipt for the payment if made in cash or otherwise if the amount was repaid by cheque there would be a bank entry or receipt, none of which is produced on record.

4. Apart from the said allegation there is also a general allegation that the entire misappropriation is to the tune of Rs.2,76,01,040/- for which the Applicant as a Vice-Chairman and a responsible member of the Board of Directors can not *prima facie* escape responsibility. Even the audit report shows that the responsibility of the Applicant is joint with the other members of the Board of Directors.

5. This Court by a detailed order dated 4 February 2022 in ABA No.300 of 2022 has rejected the anticipatory bail application of the Chairman and except that the Chairman was found to have signed fixed deposit receipts kept with the Ganesh Co-operative Bank in token of their discharge, the reasoning of the said order would equally apply to the Applicant as a Vice-Chairman. No case for grant of pre arrest bail is made out. The Criminal Application is accordingly rejected.

C.V. BHADANG, J.