IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 829 OF 2022

Mr. Pravin Yashwant Darekar …. Applicant
v/s.
The State of Maharashtra …. Respondent

Mr. Ashok Mundargi, Sr. advocate with Mr. Akhilesh Chaubey and Mr. Virendra Pandey i/b. AVC and Associates for the Applicant.
Mr. Sudeep Pasbola, Special PP with Mr. Ayush Pasbola for the Respondent.
Ms. A.A. Takalkar, APP for the State.
Mr. Sushilkumar Gaikwad, PI.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th APRIL, 2022.

P. C. :-

. This is an Application under section 438 of Cr.P.C. for pre-arrest bail in C.R.No.99/2022 registered with M.R.A. Marg Police Station, Mumbai for offences punishable under sections 199, 200, 406, 417, 420, 465, 468 and 120-B of the Indian Penal Code.

2. Heard Mr. Ashok Mundargi, learned Senior counsel for the Applicant, Mr. Sudeep Pasbola, learned Special PP and Ms. A.A. Takalkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the

respective parties.

3. The aforesaid crime was registered pursuant to the First Information Report (FIR) dated 14/03/2022 lodged by Dhananjay Ramkrishna Shinde who is stated to be the State Secretary, Aam Aadmi Party. It is the case of the prosecution that the Applicant had enrolled himself as a member of the Pratigya Labour Co-operative Society (hereinafter referred to as 'the Society') in the year 1997. In the year 1999, he contested elections of Mumbai District Co-operative Bank (hereinafter referred to as 'the Bank') and was elected from 1999 till 2021, during which period he became the Director and later Chairman of the Bank. The Complainant alleges that the Applicant was enrolled as a member of the Society without providing relevant documents to prove his eligibility. The Applicant had also signed the attendance register as a supervisor. It is contended that a supervisor is not competent to be a member of the Society. It is alleged that the Society itself is bogus and sham. It is contended that as a Chairman of the Bank, the Applicant had disbursed loan of crores of rupees which has not been repaid and has thereby caused loss to the said Bank. The Applicant is also accused of utilizing the funds of the Bank for his personal gains.

4. The Complainant has alleged that the Applicant is not a laborer but is an affluent person. He has been contesting Assembly Elections since the year 2004. In his nomination form he had disclosed the total family assets at Rs.2,13,05,500/-, out of which Rs.91.52 lakhs were his own. Moreover, as a Member of Legislative Council he was getting remuneration of Rs.2.5 lakhs per month. He was therefore not competent to continue to be a member and further contest elections of the Bank.

5. It is also alleged that the Applicant had received remuneration of Rs.25,750/- though at the relevant time he was in Nagpur for assembly session. It is stated that while submitting his candidature, he had disclosed his source of income from independent business and that he had not disclosed that he was a member of the Society since 1997. The Applicant has been disqualified by the Divisional Co-operative Registrar under the provisions of Section 11 and 22 (1A) of the Co-operative Societies Act. The Complainant claims that the Applicant has violated all the circulars and guidelines of the Government and has committed financial mismanagement/malpractices, fraud and betrayed the depositors.

6. The records reveal that the Applicant was enrolled as a member of the Society in the year 1997. The FIR does not state that the Applicant was not eligible, to be a member as on the date of the enrollment i.e., on 07/04/1997. The allegation is that he had not produced the relevant documents before the Authority to prove his eligibility. It is to be noted that the eligibility of the Applicant to be a member of the Society is being questioned after a lapse of about 25 years.

7. The Applicant was elected as MLA from the year 2004 till 2014 and as a member of the Legislative Council in the year 2019. The allegations that the Applicant was not eligible to be a member of the Society or to hold the post of Director or Chairman of the Bank are also levelled after considerable delay, which renders custodial interrogation futile. The allegations of misappropriation are too vague and general. Suffice it to say that the Applicant cannot be deprived of his personal liberty on the basis of suspicion of complicity in an offence.

8. Mr. Pasbola, learned Special PP for the State submits that custodial interrogation of the Applicant is necessary to recover the documents submitted at the time of enrollment as a member of the

Society and while filing the candidature in Assembly Elections. It is pertinent to note that the documents sought to be recovered were filed before the public authorities. The fact that these documents are within public domain would not justify custodial interrogation.

9. Be that as it may, the question whether the Applicant met the eligibility criteria as prescribed under Rule 9 of the Bye Laws of the Society, whether he was eligible to continue as a member even after he became MLA or MLC and whether he had claimed remuneration Rs.3,250/- during the period he was in Nagpur would require adjudication on merits. The entire case is based on documentary evidence, which, as noted above, are within the public domain and there is no possibility of the Applicant tampering the documents/ evidence. Hence, custodial interrogation of the Applicant is not essential for the purpose of investigation. It is stated that the Applicant has already reported to the Investigating Officer and he has been duly interrogated. Furthermore, there is no possibility of the Applicant fleeing from justice.

10. Considering the above facts and circumstances and particularly the nature of the accusations and the material in support thereof, in my

considered view, the Applicant is entitled for pre-arrest bail. Hence, the Anticipatory Bail Application is allowed on following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.99/2022 registered with M.R.A. Marg Police Station, Mumbai, he shall be released on bail on furnishing P.R. bonds in the sum of Rs.35,000/- with one or two sureties in the like amount ;

(b) The Applicant shall report to the concerned Investigating Officer as and when required ;

(c) The Applicant shall keep the Investigating Officer informed of his current address and mobile/ contact details, and/or change of residence or mobile details, if any, from time to time.

11. The Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)