

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

ANTICIPATORY BAIL APPLICATION NO. 1447 OF 2022

Suresh Babulal Ghiya & ors. ...Applicants

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 1449 OF 2022

Ramakant Vishwambhar Dadane & ors. ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. V. V. Gangurde, for the Applicants.

Mr. P. H. Gaikwad, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 13th JUNE, 2022

ORDER:-

1. The applicants have preferred these applications for pre-arrest bail in connection with CR No.115 of 2022, registered with Upnagar Police Station, Nashik, for the offences punishable under Sections 420, 468, 471 and 406 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

2. The above numbered FIR is lodged by Mr. Rajesh Panditrao Gaikwad, Auditor, attached to the office of the Divisional Joint Registrar, Co-operative Societies, Nashik. The

crux of the allegations against the applicants is that prior to 2008 the applicants were office bearers of Siddheshwar Cooperative Credit Society. The District Deputy Registrar, Cooperative Societies, passed an order under Section 81(6) of the Maharashtra Cooperative Societies Act, 1960 ("the Act, 1960"), for re-audit of the accounts of the said society. Post re-audit, report was submitted on 28th February, 2022, pointing out financial irregularities and misappropriation under Section 81(5)(b) of the Act, 1960. In sum and substance, the re-audit for the period 1st April, 1995 to 31st March, 2008 revealed fraud to the tune of Rs.46,25,233/- under various counts.

3. By an order dated 3rd June, 2022, the interim protection granted by the learned Sessions Judge was continued.

4. Heard Mr. Gangurde, the learned Counsel for the applicants and the learned APP for the State.

5. The learned Counsel for the applicants submitted that the applicants are being hauled up for a stale incident, with an oblique motive. It was submitted that the re-audit in respect of the transactions was ordered after more than 12 years and the report came to be filed after about four years.

The learned Counsel invited the attention of the Court to an order dated 27th May, 2022, whereby the co-accused were granted pre-arrest bail. It would suffice to extract the observations of this Court in paragraph no.2 of the said order:

“2. The applicants are arraigned as accused in connection with embezzlement of funds and misappropriation of amount belonging to the Society, when they were working as Directors for distinct period, prior to 2008 when the Society was taken over by the administrator and subsequently, from the year 2017 it is undergoing liquidation. In the accusation faced by the applicants, which are stale in nature, and particularly when now the Society itself is under liquidation, with all necessary documents being available for investigation in the office of the Society now under the control of the liquidator, the custodial interrogation of the applicants is not warranted.

However, the learned APP state that presence of the applicants in the police station is necessary for obtaining their specimen signatures so that the bulk of documents which are available in the office of the society, on the basis of which the applicants face accusation of mismanaging the affairs of the society, causing loss in the society can be looked into.”

6. The aforesaid reasons apply with equal force to the applicants, who are similarly circumstanced. The sheer lapse of time and the stale nature of the accusation, coupled with the fact that the entire record is in the custody of the Liquidator, render custodial interrogation of the applicants unwarranted. I am thus persuaded to exercise the discretion in favour of the applicants.

7. Hence, the following order:

: O R D E R :

(i) In the event of arrest of the Applicants, Suresh Babulal Ghiya and Shantaram Khanderao Kadam in ABA/1447/2022 and Ramakant Vishwambhar Dandane, Gangadhar Rangnath Zarekar, Balkrishna Baburao Dandane, Chandrashekhar Narayan Dandane, Sanjay Shridhar Khodade and Badrinath Babanappa Surade in ABA/1449/2022, in connection with CR No.115 of 2022, registered with Upnagar Police Station, Nashik, shall be released on bail on furnishing PR Bond in the sum of Rs.50,000/- each, with one or two sureties in the like amount.

(ii) Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(iii) Applicants shall report the concerned police station on Monday and Tuesday for a period of four weeks between 10.00 am. to 2.00 pm. and, thereafter, as and when called for.

(iv) Anticipatory Bail Applications stand disposed.

[N. J. JAMADAR, J.]