IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3144 OF 2021

Sakharam Appaji Chavan .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 3145 OF 2021

Sanjay Santu Gore .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Shantanu S. Raktate for Applicants in both ABAs.
Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 04th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. Both these applications are decided by this common order as they arise out of common investigation.

2. The Applicants are seeking anticipatory bail in connection with C.R.No. 437 of 2019 registered at N.M.Joshi Marg Police Station, Mumbai, on 23/12/2019, under sections 409, 420, 465, 468, 471, 477(A) r/w. 34 of the Indian Penal Code (for short

'IPC').

3. Heard Shri. Shantanu Raktate, learned counsel for the applicants in both applications and Shri. Ajay Patil, learned APP for the State.

4. The First Information Report (for short 'F.I.R.) is lodged by Ravindra Dharma Wagh, Special Auditor working with Co-operative department. The subject matter of the F.I.R. is about misappropriation of amounts and and falsification of accounts committed in respect of business of Shri. Jomadevi Co-operative Credit Society Ltd. The F.I.R. mentions that the applicant Sanjay Gore was Ex-Chairman and the applicant Sakharam Chavan was Vice Chairman of the same society. There are four instances on the basis of which the F.I.R. is lodged.

The first instance refers to misappropriation of amount of Rs.41580/-. The F.I.R. mentions that, said amount was withdrawn for making payment to the employees. The receipts were obtained but the amount was not disbursed to them and instead it was given to the present applicant Sakharam Chavan and Ex-Vice Chairman Krushna Yejare.

The second allegation is pertaining to misappropriation of amount of Rs.43,268/-. That amount was also withdrawn purportedly for making payment to the employees but it was not fully paid and some amount was deposited in the account of the present applicant Sanjay Gore.

The third allegation is about misappropriation of amount of Rs.50,000/- which was withdrawn for making payment to the Directors, however, they were not paid and the amount was misappropriated by the other accused in collusion with the applicant Sanjay Gore.

The fourth allegation is about misappropriation of amount of Rs.8,200/- which was shown to be withdrawn for payment of monthly allowance, but it was not paid to the Board of Director and instead it was misappropriated.

5. Learned counsel for the applicants invited my attention to the Special Audit report, based on which the F.I.R. is lodged. In fact, in that report itself all these figures are mentioned. So far as, first allegation is concerned, it is mentioned that Rs.41,580/- were withdrawn with the help of sanction given by the applicant

Sakharam Chavan, as a Chairman. However, there is nothing further to show that amount was given to the applicant Sakharam Chavan after it was withdrawn. The Audit report mentions only the withdrawal of that amount.

6. As far as, second allegation of misappropriation of amount of Rs.43,268/- is concerned, the Audit report mentions that the amount was withdrawn under the signature of the then Chairman Dhanaji Kasalkar and it was taken by the Ex-Secretary Tanaji Kasalkar. The Audit report does not hold either of these applicants responsible for the same including the applicant Sanjay Gore against whom the alllegations are made in the F.I.R.

7. Similarly, in respect of third allegation of misappropriation of amount of Rs.50,000/-, the Audit report names Dhanaji and Tanaji. Here again there are no allegations in the Audit report that the applicant Sanjay Gore had benefited from them.

8. Similar is the case regarding amount of Rs.8200/-. Again the Audit report names Dhanaji and Tanaji, the then Chairman. Here again neither of the applicants are blamed for

misappropriation of that amount.

9. Learned counsel for the applicants submitted that, thus significant facts are at variance between the audit report and the F.I.R. Therefore, custodial interrogation of the applicants would be unjustified.

10. Learned APP opposed these applications and relied on the averments in the F.I.R. He submitted that it is a matter of investigation and to show bonafides the applicants be directed to deposit those amounts.

11. I have considered these submissions. As rightly submitted by learned counsel for the applicants, there is significant variance between the Special Audit report and the F.I.R., though, the F.I.R. is based on Special Audit report. In the Audit report, neither of the applicants is mentioned as persons who were benefited from such misappropriation. In this view of the matter, sufficient doubt is created about the prosecution story against the present applicants. Therefore, their custodial interrogation would not be justified. They deserve protection of anticipatory bail.

12. Hence, the following order :

ORDER

(i) In the event of their arrest in connection with C.R.No. 437 of 2019 registered at N.M.Joshi Marg Police Station, Mumbai, the applicants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

(ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iii) Both applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)