

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.132 OF 2023**

Deepak s/o Sampatrao Bangal ... **APPLICANT**

**VERSUS**

The Superintendent of Police,  
Ahmednagar & anr. ... **RESPONDENTS**

.....  
Mr. R.R. Karpe, Advocate for applicant  
Mr. A.S. Shinde, A.P.P. for respondents, assisted by  
Mr. Y.V. Kakade, Advocate for interveners  
.....

**WITH**

**CRIMINAL APPLICATION NO.530 OF 2023 IN  
ANTICIPATORY BAIL APPLICATION NO.132 OF 2023**

Kumar s/o Bhausahab Dawkhar & ors. ... **APPLICANTS**

**VERSUS**

Deepak s/o Sampatrao Bangal & ors. ... **RESPONDENTS**

.....  
Mr. Y.V. Kakde, Advocate for applicants  
Mr. R.R. Karpe, Advocate for respondent No.1.  
Mr. A.S. Shinde, A.P.P. for respondents No.2 & 3  
.....

**WITH**

**ANTICIPATORY BAIL APPLICATION NO.168 OF 2023**

Bhausahab s/o Tukaram Yeole ... **APPLICANT**

**VERSUS**

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The Superintendent of Police,  
Ahmednagar & anr.

... RESPONDENTS

.....  
Mr. R.R. Karpe, Advocate for applicant  
Mr. A.S. Shinde, A.P.P. for respondents, assisted by  
Mr. Y.V. Kakade and Mr. S.S. Munot, Advocates for interveners  
.....

WITH

**CRIMINAL APPLICATION NO.563 OF 2023 IN  
ANTICIPATORY BAIL APPLICATION NO.168 OF 2023**

Kumar s/o Bhausahab Dawkhar & ors. ... APPLICANTS

VERSUS

Bhausahab Tukaram Yeole & ors. ... RESPONDENTS

.....  
Mr. Y.V. Kakde, Advocate for applicants  
Mr. R.R. Karpe, Advocate for respondent No.1.  
Mr. A.S. Shinde, A.P.P. for respondents No.2 & 3  
.....

WITH

**CRIMINAL APPLICATION NO.1177 OF 2023 IN  
ANTICIPATORY BAIL APPLICATION NO.168 OF 2023**

Suresh s/o Shripath Kokate & anr. ... APPLICANTS

VERSUS

Bhausahab s/o Tukaram Bangal & ors. ... RESPONDENTS

.....  
Mr. S.S. Munot, Advocate for applicants  
Mr. R.R. Karpe, Advocate for respondent No.1.  
Mr. A.S. Shinde, A.P.P. for respondents No.2 & 3  
.....

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WITH

**ANTICIPATORY BAIL APPLICATION NO.567 OF 2023**

Surekha Sandip Sangale

... APPLICANT

VERSUS

The Superintendent of Police,  
Ahmednagar & anr.

... RESPONDENTS

.....  
Mr. V.S. Wakale, Advocate for applicant  
Mr. A.S. Shinde, A.P.P. for respondents  
.....

WITH

**ANTICIPATORY BAIL APPLICATION NO.270 OF 2023**

Dattatraya Vitthal Bombale & anr.

... APPLICANTS

VERSUS

The Superintendent of Police,  
Ahmednagar & anr.

... RESPONDENTS

.....  
Mr. V.D. Hon, Senior Counsel with  
Mr. A.V. Hon, Advocate for applicants  
Mr. A.S. Shinde, A.P.P. for respondents  
.....

CORAM : R.G. AVACHAT, J.

Date of reserving order : 26th April, 2023

Date of pronouncing order : 4th May, 2023

ORDER :

Criminal Applications No.530/2023, 563/2023 and

1177/2023 are allowed. The interveners are permitted to assist learned A.P.P.

2. These applications, under Section 438 of the Code of Criminal Procedure, are being decided by this common order since the applicants therein claim to have apprehension of arrest in connection with Crime No.1155/2022, registered with Rahuri Police Station, District Ahmednagar for the offences punishable under Sections 409, 420, 465, 477-A read with Section 34 of the Indian Penal code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. The First Information Report (F.I.R.) has been lodged by a Government auditor on instructions of Assistant Registrar, Co-operative Societies. The informant completed reaudit of "Rahuri Taluka Rajmata Jijau Nagari Sahakari Patsanstha Maryadit" (for short, 'Credit Society') for the period from 1/4/2016 to 31/3/2021 and then lodged the F.I.R. against the applicants and some others. It has been alleged in the F.I.R. that, a sum of Rs.7,37,62,078/- (Rupees Seven Crores Thirty Seven Lakhs Sixty Two Thousand and Seventy Eight) has been misappropriated by the applicants namely Bhausahab

Tukaram Yeole and Surekha Sandip Sangale and other office bearers of the Credit Society. The other applicants herein are the auditors of Co-operative Society. They are alleged to have audited the accounts of the Credit Society, however, gave reports concealing misappropriation of the funds. They are also alleged to have been hand in gloves with the Chairman, Vice Chairman and Manager of the Credit Society in siphoning of the Society funds.

4. The details of misappropriation of the amounts are as under :-

| <b>Sr. No.</b> | <b>Period during which the misappropriation took place</b> | <b>Amount misappropriated (Rs.)</b> | <b>Persons who have misappropriated the amount</b>                                                                                                     | <b>Modus operandi of misappropriation</b>                                              |
|----------------|------------------------------------------------------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1              | 2020-2021                                                  | 88,04,758/-                         | Manager Karbhari Phatak, Chairman Shri Bhausahab Tukaram Yeole, Vice Chairman Sharadrao Laxman Nimse, Cashier Smt. Surekha Sandeep Sangle (co-accused) | Cash in hand misappropriated                                                           |
| 2              | 2019 to 2021                                               | 70,56,938/-                         |                                                                                                                                                        | Amount received towards Fixed Deposits not accounted for in Fixed Deposit Accounts and |

|   |              |               |                                      |                                                                                                                                                                                          |
|---|--------------|---------------|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |              |               |                                      | misappropriated the same.                                                                                                                                                                |
| 3 | 2020-2021    | 2,67,491/-    |                                      | Closing balance on Saving Account as on 31/3/2021 misappropriated without accounting the same in the Books of Accounts                                                                   |
| 4 | 2016 to 2021 | 4,42,68,948/- | Manager Karbhari Phatak (co-accused) | Manager karbhari Phatak (co-accused) misappropriated the same. He is shown to have been granted loan of this much amount against no security at all in the nature of pledge or mortgage. |
| 5 | 2020-2021    | 11,00,000/-   |                                      | The amount received towards Fixed Deposits not accounted in the cash book and misappropriated the same                                                                                   |
| 6 | 2020-2021    | 1,04,19,750/- |                                      | Amount withdrawn from another Bank Account and not accounted in the Books of Accounts                                                                                                    |
| 7 | 2016 to 2021 | 15,99,608/-   |                                      | Disbursal towards loan shown to have been granted against pledge of gold, in fact no gold was taken as pledge.                                                                           |
| 8 | 31/3/2021    | 2,52,585/-    | Daily balance                        |                                                                                                                                                                                          |
|   | Total:-      | 7,37,70,078/- |                                      |                                                                                                                                                                                          |

5. Heard. Shri Rahul R. Karpe, learned counsel would submit that, the applicant Bhausahab Yeole is a man with social status. He decided to start a Co-operative Credit Society with good intention. The applicant himself had earlier lodged the complaint against the Manager Phatak with the Registrar of Co-operative Societies. The applicant had even lodged a police report in that regard. According to learned counsel, it is the Manager (co-accused) who is exclusively responsible for the alleged misappropriation. The applicant and other office bearers of the Credit Society raised funds by self contribution amounting to Rs.1,50,00,000/- and disbursed the same to the investors. The applicant Bhausahab had his own deposits amounting to Rs.17,00,000/-. The same has also been appropriated. A land of N.A. potential standing in the name of wife of the applicant was offered as a security. The properties of the applicant and other office bearers of the Credit Society are being attached. The office of the Sub-Registrar has been informed not to register any transaction in relation to the immovable properties of the applicant Bhausahab and other office bearers of the Credit Society. According to learned counsel, the provisions of the Maharashtra Protection of Interest of Depositors Act (M.P.I.D. Act) do not apply to the present case since a Credit Society has been controlled by the State

Government. The definition of the financial institution given in the M.P.I.D. Act was, therefore, adverted to. According to learned counsel, the Administrator has been appointed to look after the affairs of the Credit Society. The amounts advanced as loan would be recovered in due course. The Credit Society would regain good financial status in immediate future. According to him, the custodial interrogation of the applicants is not warranted in the facts and circumstances of the case. He, therefore, urged for grant of the application.

6. Learned counsel Mr. Wakale for the applicant Surekha Sandip Sangale would submit that, she (Surekha) was serving as a Cashier at a monthly pay of Rs.4500/- only. There is nothing to indicate a single farthing to have reached her (Cashiner's) hand. He would further submit that, the applicant being a woman, be protected.

7. Mr. Hon, learned Senior Counsel for the Auditors and Mr. Rahul Karpe, learned counsel for other applicant – Auditor would submit that, the audit of the Credit Society for the respective period/s was made on the basis of the documents/ Books of Accounts submitted for their inspection. Their reports were based on the entries therein. The one who has

misappropriated the amount appears to have consciously not given these applicants the necessary proceeding books and other books of accounts for inspection. According to the learned counsel, these applicants could in no way be termed to have misappropriated the funds of the Credit Society since they were neither Incharge of day-to-day affairs nor the office bearers thereof. Their role may at the most be accessory post offence. They, therefore, urged for grant of the applications.

8. The learned A.P.P. and the learned counsel appearing for the interveners would, on the other hand, submit that, it is a big economic offence. The Manager alone cannot misappropriate unless the Chairman and other office bearers are hand in gloves with him. The applicant Bhausahab was admittedly looking after day-to-day affairs of the Credit Society. Bank Account was operated with his signatures. A sum of Rs.1,50,00,000/- has been withdrawn in cash under his signature. The amount ought to have been withdrawn by transferring the same to the account of the Credit Society. The Chairman Bhausahab has signed every year balance sheet of the Credit Society, suggesting the financial status thereof to be good. The same indicates his involvement in the offence. It was also brought to the notice of this Court that the Manager

has resigned from his position way back in 2019-2020. The applicant Bhausahab (Chairman) still allowed him to function as a Manager. The same indicates the involvement of the Chairman in the offence in question. According to the learned counsel, when the Chairman has his own agricultural land, he did not offer the same as a security. The land worth paltry amount standing in the name of his wife is offered as security to seek the relief. According to the learned counsel, it being an economic offence, and involvement of the applicant being writ large therein, grant of anticipatory bail would send a wrong message. He, therefore, urged for rejection of the applications.

9. Considered the submissions advanced. Perused the F.I.R. and the related papers. The F.I.R. has been lodged by the Government Auditor. The audit had to be undertaken on complaints of the depositors. It is an economic offence involving a sum of Rs.7,37,62,078/-. The applicant Bhausahab was the Chairman of the Credit Society. He was looking after the day-to-day affairs thereof. He was also authorized signatory for operation of the Bank Accounts of the Credit Society. A sum of Rs.1,50,00,000/- was withdrawn under his signature. The blame is put on the Manager. The fact is, however, that the Manager alone would not have siphoned of

such a huge amount unless the person who is at the helm of the affairs, namely the Chairman Bhausahab is hand in gloves. Each year's balance sheet was prepared and published under the signature of the Chairman. When the Manager has resigned from his position in the year 2019-2020, he was allowed to continue to work. This was only with the blessings of applicant Bhausahab. Although the audit report suggests the Manager to have been responsible for various misdeeds as misappropriation of the amount, the applicant Bhausahab is equally responsible. The Court is, therefore, not inclined to grant him the relief, although the sum of Rs.1,50,00,000/- is shown to have been collected by the office bearers of the Credit Society and disbursed to some of the depositors.

10. So far as regards applicant Surekha Sangale, Cashier is concerned, the Court is inclined to grant her relief, considering her gender and the fact that she was serving at a monthly pay of Rs.4500/-.

11. So far as regards other applicants, namely the Auditors are concerned, they were not Incharge of the affairs of the Credit Society. According to them, they did the audit on the

basis of the papers/ registers given to them for inspection. In view of this Court, misappropriation could be said to have been committed by the Manager and others who were Incharge of the day-to-day affairs and entrustment of the funds. The Auditor may be said to have committed offence punishable under Section 201 and/or 202 of the Indian Penal Code. The auditors are alleged to have not given the true financial position of the Credit Society in their reports. The same does not amount to misappropriation of the Credit Society funds. The Court is also, therefore, inclined to grant them relief.

12. In view of the above, the applications are disposed of in terms of the following order :

### **ORDER**

(i) Anticipatory Bail Applications No.132/2023, 567/2023 and 270/2023 are allowed. In the event of arrest of the applicants in these applications in connection with Crime No.1155/2022, registered with Rahuri Police Station, District Ahmednagar for the offences punishable under Sections 409, 420, 465, 477-A read with Section 34 of the Indian Penal Code and Section 3 of

the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, they be released on bail on their executing P.R. bonds in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(ii) These applicants shall not tamper with the prosecution evidence and shall appear before the investigating officer as and when required for the purpose of investigation.

(iii) Anticipatory Bail Application No.168/2023 filed by applicant Bhausahab Tukaram Yeole is dismissed.

**(R.G. AVACHAT, J.)**

fmp/-