

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.492 OF 2023

KIRAN PARAJI KALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Abhishek V. Bhagat
APP for Respondent : Mr. K. S. Patil
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CORAM : S. G. MEHARE, J.

DATE : 05-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.

2. The applicant is claiming that he was temporary appointed office Peon in the Sina Parisar Nagari Sahkari Patsanstha, Mirajgaon (for short, Patsanstha), in which the alleged fraud and misappropriation of the gold and money has been committed. He never misappropriated the gold nor received any amount or withdrawn from the Patsanstha. On the contrary, he discovered the discrepancy in the number of mortgaged gold bags. Then the inquiry was initiated. He was never the Manager nor the Secretary of the Patsanstha. He never encashed the cheque which was allegedly issued in his name for Rs.2 Lakh. There are two contradictory audit reports. An inquiry under Section 88 of the

Maharashtra Co-operative Societies Act, 1960 (for short, "the Act") is incorrect. The applicant is a poor man. However, he *bona fide* ready to deposit of Rs.2 Lakh. The applicant is languishing in jail since last about six months. The investigation has been completed. Nothing is to be recovered from him. Hence, he may be granted bail.

3. The learned A.P.P. would argue that the applicant has played an active role. In the inquiry under Section 88 of the Act, the liability of around Rs.74 Lakh has been fixed. The applicant was the Secretary of the Patsanstha. The offence is serious. Hence, he may not be granted bail.

4. Perused the chargesheet. The first information report reveals that earlier Manager of the Patsanstha had died. Hence, the charge was given to the applicant. When he took the charge, 346 bags of gold were handed over to him. When he inspected the mortgage register, he found that there were 396 bags of the gold. Then audit was done and again re-audit was also done. It was found that there was misappropriation of about Rs.1 Crore and 11 gold bags were missing. It seems that till 28 February 2021 the applicant had no concern directly or indirectly with the business of the Patsanstha. However, he was shown as in-charge Secretary of the Patsanstha. Whether he was responsible to the business of the Patsanstha, is a matter of evidence before the trial Court. The

investigation has been completed. Nothing is to be recovered from him. The trial may take its time. Therefore, it may be inappropriate to keep him behind bar. Hence, the following order:-

- i) Application is allowed.
- ii) Applicant Kiran Paraji Kale be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.505 of 2021, registered with Karjat Police Station, District Ahmednagar, for the offence punishable under Sections 420, 406, 408, 409 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall deposit Rs.2,00,000/- (Rs. Two Lakh) with the trial court within fifteen days from today.
 - (c) He shall be released after depositing the money as directed above.

(S. G. MEHARE)
JUDGE

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