

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

ANTICIPATORY BAIL APPLICATION NO. 697 OF 2023

**BHAGWAT SAMPAT MALI
VERSUS
THE STATE OF MAHARASHTRA**

Mr. A. R. Avachat and P. D. Jarare, Advocate for the applicant
Mrs. G. L. Deshpande, APP for the respondent/State

WITH

ANTICIPATORY BAIL APPLICATION NO. 702 OF 2023

**PRAMOD BHAICHAND RAISONI
VERSUS
THE STATE OF MAHARASHTRA**

Mr. A. R. Avachat and P. D. Jarare, Advocate for the applicant
Mrs. G. L. Deshpande, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 5th SEPTEMBER, 2023

P.C. :-

1. Applicants apprehend arrest in connection with Crime No. 257/2018 registered with Tophakhana Police Station, District Ahmednagar for the offences punishable under Section 420, 406, 409, 120(B) r/w 34 of IPC and Section 3 and 4 of M.P.I.D. Act.
2. There is no dispute about the fact that the present applicants are accused of the crime which involves more than Rs.7,30,00,000/- misappropriation committed in Bhaichand Hirachand Raisonni Multistate

Co-operative Credit Society Limited. Further there is no denial of the fact that there are 82 crimes registered against the applicants and co-accused.

3. As far as all other crimes are concerned, applicants are enlarged on regular bail. Hon'ble Apex Court by passing order dated 15th December, 2022 has released applicant Pramod on bail, after 8 years in jail. The applicants apprehend arrest as in the instant case charge-sheet has been filed against them by referring them as absconded accused.

4. Learned counsel for the applicants submitted that applicants in connection with Crimes in question the applicants were arrested and were behind bar for more than 8 years. It is his submission that after even taking into account seriousness of crime and amount alleged misappropriated therein, the applicants are released on bail considering long period spent behind the bar by Hon'ble Apex Court. It is submitted that as far as present crime is concerned, considering the allegation against them to show bonafides a sum of Rs.21,53,000/- is already deposited in this Court. It is his contention that though the applicants were in jail for 8 years, no attempt was made by the Investigating Agency to secure their custody for carrying out further investigation into present crime. He further submits that pursuant to the directions of the Hon'ble Apex Court the applicants are required to attend the concerned

Trial Court every day as the said proceeding is directed to be conducted on day to day basis and hence there is no likelihood of their abscondence. It is also argued that investigation in that crime is completed already and charge-sheet has been filed. Thus, according to him custodial interrogation of applicants is not necessary.

5. Learned APP vehemently opposed the applications by contending that huge amount has been misappropriated in this case. It is her basic contention that in case of economic offences anticipatory bail cannot be granted. To support her submission reliance is placed on the judgment of Hon'ble Apex Court ***P. Chidambaram Versus Directorate of Enforcement, 2019 DGLS(SC) 1163, Y. S. Jagan Mohan Reddy Versus Central Bureau of Investigation, 2013 DGLS (SC) 406*** and the judgment of Punjab and Haryana High Court in case of ***Abhay Pal Gupta and Another Vs. State of Punjab in CRM-M No. 3786 of 2023, dated 24/01/2023***. It is further submitted that there are statements recorded of the witnesses which indicate that even when the applicants wherein jail more particularly applicant in ABA No. 702 of 2023, he could manipulate the record even from jail. In this regard statement recorded during the course of investigation is relied upon which indicates that the accounting system was not properly kept giving scope for it's manipulation. It is also pointed statement of one of witness

indicates that files connected with crime concerning with the company were disposed off by carrying the safe from the chamber of these applicants to the spot. Learned APP has submitted that merely because the applicants were not taken in custody at the relevant time for the purpose of investigation in this crime, it cannot become a ground for allowing the application for pre arrest bail. To support the said submission reliance is placed on the judgment of this Court in ABA 16 of 2020.

6. Though there is no dispute about the fact that in all 82 crimes are registered against the applicants, involving huge amount, but at the same time it cannot be ignored that out of 82 crimes registered up to the year 2018, except for the present case, in all other cases Hon'ble Apex Court has enlarged the applicants on regular bail. Thus, there is reason to accept contention of learned counsel for applicants that only after considering the volume of crime and registration of number of offence, they were enlarged on bail by Apex Court.

7. No doubt in the judgments (cited supra) the Hon'ble Apex Court has dealt with issue regarding grant of anticipatory bail in case of economic offences however, perusal of those judgments clearly show that the anticipatory bail was not granted to the accused therein having regard to the initial stage of the investigation of the crime in question.

Thus, it would not be open for the Court to grant pre arrest bail, at the initial stage of investigation. The question arises as to whether such bail can be refused if investigation is complete and prosecution does not show any reason whatsoever as to the reason for custody of applicants. Admittedly, in the instant case, the investigation with crime is done since 2018. On conclusion thereof charge-sheet has been filed against co-accused. In such circumstances, it is absolutely essential for the prosecution to show as to the purpose for which custodial interrogation of the applicants is necessary. If it is so shown, applicants would not be entitled for anticipatory bail.

8. In this regard the statements relied upon by the learned APP as well as the internal audit report indicate that the same pertains to the period prior to November, 2022 i.e. before enlargement of applicants on bail by Hon'ble Apex Court. As far as the investigation into the crime in question is concerned, the prosecution was unable to show any material on record in order to hold that for the purpose of carrying out any particular investigation or for purpose of seizure of anything, custody of the applicants is required.

9. As far as allegation of the interference in the evidence or pressurizing of the witnesses is concerned, the non cognizable report has been lodged by one of the witness on 22nd November, 2022. It is needles

to say that this has nothing to do with the present case as the interim relief is granted to the applicants only on 6th June, 2023. More particularly even after such alleged incident, applicants were granted regular bail.

10. For the purpose of grant or rejection of the anticipatory bail application along with the nature of offence what is also relevant is need of custodial interrogation of the applicants and their likelihood to flee from justice. As far as the order of Hon'ble Apex Court of granting bail to the applicants clearly indicates that there is no possibility of the flee from the Court of law. As recorded above, with regard to the custodial interrogation nothing is brought on record to hold that for the any purpose or interrogation their custody is required by the Investigating Agency.

11. As regards contention of applicants that no attempt was made even by the Investigating Officer to get their custody for 8 years is concerned, perusal of the judgment of this Court (supra) clearly shows that this cannot become the sole ground for rejection of anticipatory bail. However, at the same time it would be just and necessary for the prosecution to show the purpose for which the custodial interrogation of the applicants is necessary now.

12. In view of the fact that the investigation into the crime in question is already over and charge-sheet is filed and Investigating Agency was unable to show any reason whatsoever for custodial interrogation of applicants, their liberty cannot be denied. Applicants can not be kept behind bar by way of pre trial sentence. Their abscondence is ruled out, as they are required to attend trial which has already begun and conducted day to day. Most pertinently, since Hon'ble Apex Court after considering the entire case, nature of offence, volume of misappropriation and number of crimes recorded against applicants, has granted bail to them, this is not case to deny pre arrest bail. Hence applications are allowed in terms of interim relief order dated 8th June, 2023.

(R. M. JOSHI, J.)

ssp