IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 720 OF 2023

Alka W/o Ramesh Gore and Others **...Applicants**

Versus

The State of Maharashtra & Others **...Respondents**

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Mr. P. P. Giri, Advocate for the Applicants.
Mrs. G. L. Deshpande, APP for Respondent – State.

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CORAM : R.M. JOSHI, J.

DATE : JULY 07, 2023

ORDER

1. A unique situation has occurred in this case as the present Applicants, who are females, and directors of Bhagyalaxmi Mahila Gramin Co-operative Society (Credit Society) (for short '**Society**') claim that they are only on record Directors of the said Society, and entire transactions of the society were looked after by their husbands. These husbands, on the other hand, claim that they are not office bearers of the Society and on that ground they succeed in getting anticipatory bail from Additional Sessions Judge. If both contentions are accepted then it will lead to anomalous situation that no one can be held responsible

for the misappropriation of money belonging to the poor villagers who invested their hard earned money with society.

2. Applicants apprehend arrest in connection Crime No. 112 of 2023 registered with Bidkin Police Station, Tq. Paithan for the offences punishable under Sections 120-B, 406, 420, 504, 506 read with Section 34 of IPC and Sections 3 and 4 of M.P.I.D. Act.

3. Informant lodged complaint with JMFC, Paithan for direction to the police to record offence under Section 156(3) against present Applicants and other accused for misappropriation of funds of the said society. Pursuant to the direction of JMFC, offence came to be registered. It is alleged by informant that keeping trust on Applicants as well as their spouses number of depositors invested in fixed deposits with the society with the hope that they well get better rate of interest on the said amount. There was misappropriation of the founds in the society and hence, it was closed by the Applicants. The amounts due and payable to the investors were not repaid and hence, crime came to be registered.

4. Learned Counsel for the Applicants states that Applicants are women and though they are on record directors of society, and Anita Dhumal was secretary but practically the entire work was looked after by her husband. It is claimed that after realizing that there are financial irregularities in the society, a complaint was made to the Assistant Registrar, Co-operative Society, Paithan on 26.11.2011 to investigate into the affairs of the society. Thus, according to him, this shows innocence of the Applicant because if they are involved in the crime, they would have never approached authority by making such complaint. It is also contended that in fact the present Applicants own deposits to the extent of Rs. 7 lacs are in jeopardy. He, therefore, claims that Applicants are also victims of the crime.

5. Learned APP vehemently opposed the application by submitting that the investigation conducted till date clearly shows that the Applicants and their spouses induced the depositors to invest the amount in the society with assurance of interest and thus, they are cheated by non refund of the said amount. It is

submitted that at this stage, very few investors have came forward to give statement and said number is likely to be increased. Thus at this stage the exact amount of misappropriation cannot be ascertained but for time being it can be said to be not less than of Rs. 30 lacs. It is further submitted that the victims herein are from poor-strata of the society who in hope of getting interest deposited amounts and now they are being duped. It is submitted that custodial interrogation of the Applicants is necessary in order to ascertain as to the manner in which siphoning of money is done.

6. Herein this case, learned Additional Sessions Judge has enlarged the husbands of Applicants on anticipatory bail with the observation that they are not office bearers of the Society. This order is not challenged by investigating agency. Now applicants claim that they were office bearers for the name sake and in fact the entire work were done by their spouses. If such submission is accepted then it will give a licence to any accused to commit offence and disown the responsibility thereof. In such case, Court is duty

bound to see whether the Applicants are in any way responsible for the alleged offence. It is not in dispute that the Applicants are the Directors of the Society. *Prima facie* perusal of the statement of witnesses clearly show that the Applicants as well as their husbands induced the deposits to deposit the amount with the society with assurance of good returns on that money. Thus, there is material on record to indicate their involvement in the affairs of society.

7. As far as the defence taken by the Applicants that they lodged complaint with the Assistant Register and which shows their innocence, cannot be accepted at this stage for the simple reason that the said communication is made to the authority only after death of Ramkrushna Dhumal on 09.08.2021. If such stand is accepted then it would be absolutely easy to make allegations against the deceased person that he was responsible for the activities of the society and to get away from liability.

8. Merely because the Applicants are females that cannot became sole ground for their enlargement on bail At this stage, an amount more than Rs. 30 lacs seems to

have been misappropriated from the society. This amount is not of monied person but poor villagers invested this amount by falling to the trap and inducement made by Applicants. Investigation of crime is in progress and as rightly pointed by learned APP that the said figure of duped money is likely to multiple.

9. Considering the nature of offence and its gravity and to ascertain the manner in which the misappropriation is done and beneficiary there of, custodial interrogation of the Applicants would be necessary. Hence, application stands rejected.

(R.M. JOSHI, J.)

Malani