

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

ANTICIPATORY BAIL APPLICATION NO. 740 OF 2023

Sanjay Ghansham Mudiraj

...Applicant

VERSUS

The State of Maharashtra

...Respondent

...

Mr. V.D. Sapkal, Senior Counsel i/b Mr. H.I. Pathan, Advocate for the applicant.

Mr. Y.G. Gujarati, APP for the respondent-State.

...

CORAM : S.G. MEHARE, J.

DATED : JULY 26, 2023

PER COURT:-

1. Heard learned senior counsel for the applicant and learned APP for the State.

2. This is a third successive bail application of the applicant for anticipatory bail. This Court after hearing the learned counsel for the applicant in detail, had refused the bail by order dated 03.10.2022. Thereafter, again the applicant filed another anticipatory bail application. It was also dismissed by order dated 02.12.2022.

3. Learned senior counsel for the applicant would submit that the copy of the scheme namely Prime Minister's Employment Generation Programme (PMEGP) was not brought to the notice of this Court while arguing the earlier bail applications. Referring to some relevant paragraphs, he has vehemently argued that the identification

of beneficiaries was not the duty of the applicant. It was the duty of the Task Force consisting of representatives from KVIC/State KVIB and State DICs. Further he would argue that now the co-accused Nandkishor Mane has been held responsible for misappropriation in the inquiry report. However, he had been granted bail. He would also argue that the banks would either sanction or reject the loan application within a stipulated period and it is the bank who has to transfer the margin money subsidy within 24 hours of the receipt of validation. In a nutshell, he would argue that this material aspects were not before the Court. Therefore, the applicant cannot be exclusively held responsible for the so-called misappropriation. This is a change in circumstance. Hence, the applicant deserve anticipatory bail.

4. Learned APP would submit that the scheme was well available with the applicant when his earlier anticipatory bail applications were filed. Nobody restrained him to bring out the scheme to the notice of the Court. The Court has considered the material collected by the investigating officer. He ought to have supplied the copy of scheme to the investigating officer to form an opinion. The role attributed to the applicant is different from the co-accused Nandkishor Mane, who has been granted bail. Furthermore, the applicant is successfully absconding from last one and a half year. He would also argue that even if this scheme is considered, that cast

the responsibilities and some duties upon the bank. Therefore, the applicant cannot flee away from his responsibilities. On this count also, the applicant has no good case for anticipatory bail.

5. There appears substance in the arguments of the learned APP. The scheme was already within the knowledge and possession of the applicant. However, he did not claim the bail on the basis of the responsibilities fixed for identification of the beneficiaries in the said scheme. Though it has been tried to argue that the identification of the beneficiaries is not the responsibility of the banks, but clause-7 of the said scheme has specifically mentioned about the identification of the beneficiaries on Task Force consisting of representatives from KVIC/State KVIB and State DICs and Banks also. So, it cannot be said that the Banks were absolved from the responsibility to identify the beneficiaries. The other clauses of the scheme as referred were regarding the transferring of the margin money subsidy and powers to either sanction or reject the loan applications, and those appears to have no relevance with the crime for the reason that those were the subsequent stages after the entitlement of the benefit under the scheme.

6. In view of the above, the Court is of the view that the grounds raised by the applicant that Banks were not responsible to identify the beneficiaries, is against the scheme and there were no change in circumstances. Hence, the following order :

(4)

ORDER

Anticipatory Bail Application stands dismissed.

(S.G. MEHARE, J.)

Mujaheed//