IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.876 OF 2023

1. Shivkanta w/o Makrand Bhosle
2. Ratan s/o Shankarrao Jadhav
3. Ajay s/o Baburao Ingle … APPLICANTS (Orig. accused)

VERSUS

1. The Superintendent of Police
Latur, Tq. And Dist. Latur

2. The Police Inspector
Murud Police Station
Tq. Murud, Dist. Latur. … RESPONDENTS

Mr. P. P. More, Advocate for the applicants
Mr. G. O. Wattamwar, APP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 11th SEPTEMBER, 2023

P.C. :-

1. Applicants apprehend arrest in connection with Crime No. 26/2016 registered at Murud Police Station, Dist. Latur for the offences punishable under Sections 406, 418, 420, 468 of IPC and Section 3 of MPID (in Financial Establishment) Act.

2. The first information report shows that the depositors of Aditya Multi State Co-operative Credit Society, Ltd., Pune lodged report stating that the said society has accepted the deposits from the informant and

other investors and after its maturity the amount was not refunded to them. It is alleged that the applicants who are the directors of the said society, committed misappropriation of the fund of the society.

3. Learned counsel for the applicants submitted that the crime is registered in year 2016 and thereafter the investigation has been completed with filing of the charge-sheet. It is his submission that merely because the applicants are the directors of the society, they cannot be held liable for the fraud / misappropriation committed by the other. A specific statement is made that the present applicants have never singed any resolution or any document pertaining to the disbursement of the loan.

4. Learned APP opposed the grant of anticipatory bail on the ground that this is economic offence. He submits that since there is no dispute about the fact that the applicants are the directors of the society, they are vicariously liable for the action of other directors. He also points out that the first bail application of these applicants was rejected only on the ground that they are directors of the society and observing their conduct of showing the designation prior to the date of offence.

5. There is no dispute about the fact the the crime in question is registered in year 2016. The order of rejection of bail came to be passed

in the same year. The said order was passed when the investigation was at its initial stage. Even if it is accepted that the present applicants are directors of the company but when a specific plea is raised that they never signed any resolution or any document pertaining to the disbursement of the loan, it is incumbent on the part of the prosecution to point out their specific role in the crime in question. Having regard to these facts and an order came to be passed on 29th August, 2023 calling upon the prosecution to show the material showing they to be signatory/ party to the resolutions or any other material indicating involvement in the crime. Learned APP was unable to get any instructions in this regard from the Investigating Officer which would show that they had active participation in the crime or any positive act has been done by them in this regard.

6. It is pertinent to note that the crime in question is of year 2016. The anticipatory bail of these applicants was rejected in that year itself. However, in spite of a lapse of period of 7 years no steps seems to have been taken by the Investigating Agency to secure their custody. This itself is more than sufficient to show that Investigating Agency never wanted custodial interrogation of the applicants. Since the investigation is already completed, charge-sheet has been filed and as the prosecution has failed to show the direct involvement of the applicants in this crime,

it is a fit case to protect their liberty. Hence, application is allowed in terms of interim order dated 7th June, 2023.

(R. M. JOSHI, J.)

ssp