

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

963 ANTICIPATORY BAIL APPLICATION NO.1241 OF 2023

SUNIL NARAYAN BHONGAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Sudarshan J. Salunke
APP for Respondent – State : Mrs. G.L. Deshpande

...
AND

ANTICIPATORY BAIL APPLICATION NO.813 OF 2023

UTTAM DATTATRAY TARDE
VERSUS
THE SUPERINTENDENT OF POLICE, AHMEDNAGAR AND ANOTHER

...
Advocate for Applicant : Mr. R.R. Karpe
APP for Respondent – State : Mrs. G.L. Deshpande

...

CORAM : R. M. JOSHI, J.
DATE : SEPTEMBER 01, 2023

PER COURT :

. The applicants are apprehending arrest in connect with Crime No.1155 of 2022 registered with Rahuri Police Station, Dist. Ahmednagar for the offences under Sections 409, 420, 465, 477-A r/w. Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999.

2. The FIR shows that misappropriation of funds is found at Rahuri Taluka Rajmata Jijau Nagari Sahakari Patsanstha Limited, Rahuri (For short, 'Society'). During audit for the period from 01.04.2016 to 31.03.2021 it was found that various amounts were misappropriated. The auditors in its report have specifically observed as to the responsibilities of office bearers of the society as well as employees working therein. The said misappropriation is said to be to the tune of Rs.7,37,62,078/-.

3. Learned counsel for the applicants submit that the applicants are Clerk and the Data Entry Operator in the Society. It is submitted that co-accused are released on bail. By referring to the Auditors Report, it is submitted that from the said report also it only indicates that along with the office bearers of the Society, Manager and applicants are held responsible for the same. It is submitted that there are no specific allegations against the present applicants of participating in the crime or beneficiary thereof.

4. Learned APP opposed the application by submitting that the misappropriation is huge more than Rs.7,00,00,000/-.

By referring to the auditors report, she submitted that it clearly states about the involvement of the applicants and others in this crime. In respect of applicant namely Uttam in Anticipatory Bail Application No.813 of 2023 it is argued that the account statement of this applicant indicates about he withdrawing the money when sufficient balance was not there in his account. It is further submitted that the entire accounts are maintained on computers. Therefore, the Investigating agency will require the custody of these applicants in order to unearth the scam / manner in which the offence is committed. On all these grounds, learned APP prayed for rejection of the applications.

5. Perusal of the FIR indicates that on the basis of Auditors Report the implication of present applicants is sought to be done in this crime. There is no denial of the fact that the applicants herein are Clerk and Data Entry Operator. They have no authority to take any decisions or to disburse any loan. The responsibility of the Board of Directors or the Manager cannot be equated with the work done by the present applicants. In such circumstances, there has to be positive evidence in order to connect them with the crime in question.

Perusal of the auditors report as well as investigation papers do not show any involvement of the applicants in this crime nor there is anything to indicate that they are beneficiaries of the crime. As far as the discrepancies seen from the account statement of applicant Uttam, learned counsel for this applicant has explained the said discrepancies. Even perusal of the said statement does not show that any amount has been received by him from the co-accused in order to connect him with the crime in question. Co-accused against whom similar allegations are made are already enlarged on anticipatory bail.

6. So far as the submission of the learned APP that the custody of the applicants would be necessary for interrogation in respect of ascertaining the interest in the bank account, that can be taken care by directing the applicants to appear before the Investigating Officer once in fortnight till filing of the charge-sheet.

7. Having regard to these facts, the applications deserve to be allowed. Hence, following order is passed.

ORDER

(i) Both the Applications are allowed in terms of interim order dated 19.05.2023 passed in Anticipatory Bail Application No.813 of

2023 except condition (a) which is modified as under:

(a) The applicants to appear before the Investigating Officer once in fortnight till filing of the charge-sheet.

[R. M. JOSHI]
JUDGE

GGP