IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1312 OF 2023

Balaji S/o Maroti Sunnewar (Sunewad),
Age: 50 years, Occu. Business,
R/o Vrandavan Building, Flat No.201,
Patel Colony, Vinayaknagar, Nanded,
Tq. and Dist. Nanded,
(At present in District
Prison Class-2, Nanded) ..Applicant

Versus

The State of Maharashtra,
Through Police Station Officer,
Itwara Police Station, Nanded,
Tq. and Dist. Nanded. ..Respondent

…

Mr. Gajanan G. Kadam, Advocate for the Applicant.
Mr. S. P. Deshmukh, APP for Respondent-State.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 01st SEPTEMBER, 2023.

ORDER:-

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

2. By this application, the applicant seeks regular bail in connection with Crime No.56/2017 registered with Itwara Police Station for the offences punishable under Sections 420, 467, 468, 471, 409 r/w 34 of the Indian Penal Code as well as Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short 'M.P.I.D. Act').

3. The investigation was set in motion on information given by Irfan Abdul Rauf. In nutshell it is alleged that the informant runs a grocery shop. He had business transactions with Ratneshwari Mata Urban Multi State Co-operative Society. He used to deposit the amount with the said bank. In turn, bank used to issue banker's cheques. Those banker's cheques were used for purchase of the wholesale goods from various vendors. It is alleged that in course of regular transactions the cheque worth Rs.89,432/- was issued by Ratneshwari Mata Urban Multi State Co-operative Society in the name of SBH and KGN Enterprises. Similarly, he has made certain other deposits worth Rs.6,81,000/-. However, he received the complaint from Mansi International and other traders that the cheques given by the informant have been dishonored. Immediately the informant rushed to the office of the Credit Society and made inquiry. The employees of the Credit Society assured that due to demonetization the transactions of the Credit Society are disturbed and that would be regularized. However, subsequently he found that the office of the Credit Society has been closed. The informant, therefore, alleges that he has been duped of Rs.6,81,000/- by issuing 21 false cheques. On the basis of the said information, FIR was registered on 17.04.2017. The investigation was progressed. During the course of investigation, the applicant has been arrested. Finally charge-sheet has been filed. The applicant moved an application before the Special Court for grant of bail, however, it came to be dismissed.

4. The narration of charge-sheet shows that the accused persons have committed forgery of record showing registration of Ratneshwari Mata Urban Multi State Co-operative Society in connivance with co-accused and Board of Directors of the Tipu Sultan Urban Multi State Co-operative Credit Society. It is further alleged that they have used

forged documents to depict that the Ratneshwari Mata Urban Multi State Co-operative Society is lawfully registered and entitled for banking/commercial transactions. The accused persons in furtherance with their common intention, siphoned funds for their personal benefits. The applicant has been arrested on 06.04.2023. He was remanded to police custody till 11.04.2023 and presently he is in Judicial Custody.

5. Mr. Kadam, learned Advocate appearing for the applicant would submit that in fact the applicant herein has been deceived and cheated by the accused Nasib Shaikh Rahim, who was promoter of the Tipu Sultan Urban Multi State Co-operative Credit Society. The applicant is shown as Chairman of the Ratneshwari Mata Urban Multi State Co-operative Society, however he was never in-charge of the transactions. The said Nasib Shaikh under the pretext of transfer of his Tipu Sultan Urban Multi State Co-operative Credit Society has extracted money from the applicant. He was infact in-charge of all the transactions. By inviting attention of this Court to 161 statements of the witnesses, he would point out that the accused Nasib Shaikh has executed an agreement for transfer of his Society. The procedure for transfer/renaming of the Society was also completed. The applicant had visited New Delhi for that purpose. However, the applicant has been defrauded. He would further submit that even as per the charge-sheet only amount of Rs.3,00,000/- has been transferred in the name of the applicant from the account of Ratneshwari Mata Urban Multi State Co-operative Society.

6. The learned Advocate appearing for the applicant would further submit that as per the directions of this Court, the applicant has deposited an amount of Rs.3,00,000/- to show his bonafide with the Trial Court. He would further submit that the property of the Directors has

been seized under Section 3 of the M.P.I.D. Act. A flat at Vrundavan Apartment admeasuring 1205 sq. ft. is seized, which is having valuation of approximately Rs.1 crore. He would further submit that no purpose would be served by continuing the detention of the applicant. The applicant has all along co-operated with the investigation and never made any attempt to flee away. The relevant record is already handed over to the investigating agency. The charge-sheet is filed.

7. Per contra, learned APP vehemently opposes the prayer. He would submit that the applicant is the Chairman of the Society. The large number of persons have been duped. By now, the complaints of various persons are received, which shows the amount involved in the crime is more than Rs.1.6 crores. He would further submit that the release of the applicant may hamper the smooth prosecution. He would, therefore, submit that the prayer of the applicant be rejected.

8. Having considered the submissions advanced, apparently the applicant is shown to be the Chairman of the Ratneshwari Mata Urban Multi State Co-operative Society. It was carrying out the business, however, there is no valid registration in the name of Society. At the time of the filing of the charge-sheet, it was noted that the financial irregularities of about 78,68,235/- were surfaced. The investigation is completed in the matter and the charge-sheet has been filed.

9. It can be seen from the investigation papers that the applicant has co-operated with the investigation. He had visited the police station, so also handed over the documents. *Prima facie*, it appears that the Tipu Sultan Urban Multi State Co-operative Credit Society was agreed to be purchased and same was to be renamed as Ratneshwari Mata Urban Multi State Co-operative Society. Some documentation was

done in this regard. Under the misconception that the statutory procedure is complete, the banking business was started in the name of Ratneshwari Mata Urban Multi State Co-operative Society. Initially the functioning of the Society appears to be smoothly going on and gained faith of investors in the business. However, subsequently banker's cheques issued by the Ratneshwari Mata Urban Multi State Co-operative Society were dishonored, thereby causing loss to the account holders. The property standing in the name of the Directors is already seized under the M.P.I.D. Act. It is informed that the valuation of the property is more than the amount involved. The applicant with intention to show his bonafide has deposited cash amount of Rs.3,00,000/- with the Trial Court. The investigation in the matter is complete. The applicant is behind the bar for more than four months. Further detention of the applicant would not enure to the benefit of the prosecution. The presence of the applicant can be secured in the trial by putting certain conditions. Hence, the case is made out for grant of bail.

10. It is made clear that, observations made hereinabove are on *prima facie* consideration and only for disposal of this application. Hence, the following order:

ORDER

(i) Bail Application is allowed.

(ii) The applicant, Balaji S/o Maroti Sunnewar (Sunewad) be released on bail in Crime No.56/2017 registered with Itwara Police Station for the offences punishable under Section 420, 467, 468, 471, 409 r/w 34 of the Indian Penal Code as well as Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 on executing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:

a. The applicant shall not tamper with the prosecution evidence in any manner and shall co-operate with the investigation as and when required.

b. The applicant shall attend the proceedings before the Special Court.

c. The applicant shall not leave the State of Maharashtra without permission of the Special Court.

(iii) Humdast granted.

(iv) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/September-2023