

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1539 OF 2022

Sachin Bajrang Kawade

...Applicant

Versus

The State Of Maharashtra & Another

...Respondents

Mr. R.R. Karpe, Advocate for the applicant.

Mr. V.S. Badakh, APP for respondents.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th JANUARY, 2023

ORDER :

1. The applicant apprehends arrest in Crime No. 2036/2020, registered with Sangamner City Police Station, Ahmednagar, for the offences punishable under sections 408, 420, 467, 471 of the Indian Penal Code.

2. First Information Report is lodged by auditor stating that in the year 2017 he conducted audit of Dhanganga Swayamsahayata Gramin Bigar Sheti Patsanstha Maryadit, Ghulewadi, Sangamner. He noticed illegal transactions and misappropriation. Accordingly, he submitted audit report. On the directions of Registrar, he filed First Information Report against Manager (present applicant), other employees and managing

committee members of said Patsanstha, which was registered at Crime No. 222/2017, with Sangamner City Police Station for offences punishable under sections 420 and 468 of IPC. The applicant was the main accused in the said crime.

He was again appointed to conduct audit of said Patsanstha for the year 2018-2019. During the audit, Chairman, Rangnath Kashid informed him that without approval of Managing Committee, applicant being Manager, obtained loan of Rs. 40,00,000/- by mortgaging his agricultural land situated at Paregaon (Bk) Taluka- Sangamner. Without repaying the loan, he prepared bogus no dues certificate and sold the mortgaged land. On going through documents, auditor realised that, the applicant had mortgaged land Gut No. 634/1 and 634/3 for security towards Rs. 40,00,000/- loan given to his wife. Without repaying the loan, applicant forged no dues certificate and on that basis sold the mortgaged land to one Jyoti Tukaram Hulwale. Said loan was obtained by applicant without obtaining sanction of Managing committee. As on 31.03.2019 amount of Rs. 46,47,307/- is outstanding in the said loan account, however, since 30.09.2017 no interest is applied to said loan amount. Misappropriation in gold loan given by Patsanstha is also noticed by him. Six members had obtained gold loan by pledging gold

ornaments and though they repaid loan amounts, their gold ornaments were not returned by the applicant. Thus, it is alleged that the applicant has committed misappropriation of Rs. 48,60,287/-.

3. The applicant approached the Sessions Court by filing Bail Application No. 242/2022, which was rejected on 10.10.2022. By the present application, applicant seeks anticipatory bail

4. Heard the learned advocate for the applicant and learned Additional Public Prosecutor for respondents. Perused the investigation papers.

5. The learned advocate for the applicant submits that in Crime No. 222/2017, applicant was in jail from 02.01.2018 to 28.07.2022. The applicant is convicted and sentenced to suffer 10 years rigorous imprisonment in that case. He further submits that allegations in the present FIR are covered in the earlier crime. Further submission is that, investigating agency has seized all the relevant documents and custodial detention of the applicant is not warranted in the facts of the present case.

6. Learned Additional Public Prosecutor on the other hand submits that the applicant has committed misappropriation of Rs. 48,60,287/- and though, six members of Patsanstha have repaid their gold loan, their gold ornaments were not returned by the applicant and the applicant has misappropriated their gold ornaments. He submits that for recovery of gold ornaments custody of the applicant is necessary.

7. In the FIR, following allegations are made in respect of gold loan.

i) Kashid Lahanu Pandharinath, on 24.06.2015 pledged gold worth Rs. 95,000/- and obtained loan of Rs. 38,000/-. Though, he has repaid entire loan, his gold ornaments were not returned to him. Prima facie, there is misappropriation of Rs. 55,860/-.

ii) Vadak Tukaram Shankarrao, on 30.09.2015 pledged gold worth Rs. 95,000/- and obtained loan of Rs. 75,000/-. Though, he has repaid entire loan, his gold ornaments were not returned to him. Prima facie, there is misappropriation of Rs. 95,000/-.

iii) Wakchoure Sagar Kashinath, on 08.07.2016 pledged gold worth Rs. 48,720/- and obtained loan of Rs. 75,000/-.

Though, he has repaid entire loan, his gold ornaments were not returned to him. Prima facie, there is misappropriation of Rs. 48,720/-.

iv) Navale Annasaheb Gangadhar, on 08.07.2016 pledged gold worth Rs. 10400/- and obtained loan of Rs. 9000/-. Though, he has repaid entire loan, his gold ornaments were not returned to him. Prima facie, there is misappropriation of Rs. 1400/-.

v) Jagtap Ramesh Sampat, on 28.09.2016 pledged gold worth Rs. 35,000/- and obtained loan of Rs. 28,000/-. Though, he has repaid entire loan, his gold ornaments were not returned to him. Prima facie, there is misappropriation of Rs. 7000/-.

vi) Raut Somnath Ramnath, on 07.10.2016 pledged gold worth Rs. 22,000/- and obtained loan of Rs. 17,000/-. Though, he has repaid entire loan, his gold ornaments were not returned to him. Prima facie, there is misappropriation of Rs. 5000/-.

8. From the investigation papers it appears that by misusing his position as Manager, the applicant obtained loan of Rs. 40,00,000/- in the name of his wife without sanction of

Managing Committee. Said loan was not repaid, however, he has forged no dues certificate and sold mortgaged lands offered towards security of said loan. Gold ornaments pledged by six borrowers were not returned to them, though, they repaid entire loan amounts. Thus, prima facie, it appears that the applicant has misappropriated the gold ornaments. In these facts, custody of the applicant is necessary for effective investigation.

9. Submission of the applicant that the allegations in the present FIR are covered in the earlier crime in which the applicant is convicted and sentenced to suffer rigorous imprisonment for 10 years, is not acceptable in absence of any material on record.

10. For the aforestated reasons, the applicant is not entitled for discretionary relief of anticipatory bail. The application is therefore rejected.

[NITIN B. SURYAWANSHI, J.]