

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.269 OF 2023

Anil Gulab Kawale and Ors. ... Applicants

V/s.

The State of Maharashtra ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.268 OF 2023

Prakash Laxman Daiv ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Akhilesh Chaubey a/w Adv. Prajakta Pawar, i/b
AUC and Associates for the Applicant.

Mr. Pandurang H. Gaikwad, APP for the
State/Respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 27, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.834 of 2022, registered with Shahupuri Police Station for offence punishable u/s 406, 408, 417, 420, 463, 465, 467, 468, 471, 193, 194, 120(B), read with 34 of the Indian Penal Code, 1860, the applicants are seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. According to the First Information Report, the informant was

a member of managing committee of the said society from 1993 to 2015. Civil Suit No.159 of 2018, has been filed alleging misappropriation of government funds and false and forged entries in relation to the documents of society. It is alleged that election for a period of 2022 to 2027 was due. On the eve of election, 1500 members are enrolled illegally. Admission fees received from them is misappropriated, 2200 members are expelled. It is alleged that total amount of which Rs.31,50,000/- is misappropriated which consists of share amount of entry fee at Rs.2100/-.

3. The applicants in ABA No.269 of 2023 are the managing committee members of cooperative society. Applicant in ABA No.268 of 2023 is the statutory auditor.

4. On perusal of the report of material on record, it appears that the allegations made in the First Information Report, are documentary in nature. The eligibility of members to be enrolled needs to be adjudicated by Registrar under Section 11 of Maharashtra Cooperative Societies Act, 1961. Regular Civil Suit No.159 of 2018 is already pending in relation to alleged misappropriation of funds of the society. The validity of action of expulsion needs to be adjudicated by the Registrar under Section 35 of the Maharashtra Cooperative Societies Act, 1961 read with Rule 28 and 29 for the purpose of investigation in relation to other allegations, custodial interrogation of the applications is not required. Hence following order:

- a) In the event of arrest of applicants in connection with C.R. No.834 of 2022, registered with Shahupuri Police

Station for offences punishable u/s 406, 408, 417, 420, 463, 465, 467, 468, 471, 193, 194, 120(B), read with 34 of the Indian Penal Code, 1860. The applicants be released on bail on furnishing P.R. bond of Rs.25,000/- along with one or two sureties in the like amount.

b) The applicants shall remain present before the Investigating Officer on 1st, 3rd and 5th August 2023, between 11.00 am to 2.00 pm., and thereafter, as and when called by the Investigating Officer.

c) The applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

d) The applicants shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

e) The applicants shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

5. Both the anticipatory bail applications are disposed of in above terms. No costs.

(AMIT BORKAR, J.)