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

ANTICIPATORY BAIL APPLICATION NO.939 OF 2020

Indrakumar Puranmal Bansal ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

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WITH

ANTICIPATORY BAIL APPLICATION NO.1166 OF 2023

Shashikant Purushottam Jagtap ... Applicant

V/s.

The State of Maharashtra ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.938 OF 2020

Ramesh Dharamchand Agarwal ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO.934 OF 2020

Rajesh Premchand Agarwal ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO.940 OF 2020

Kisan Kapurchand Agarwal ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr. V. M. Thorat with Mr. M.V. Thorat for the applicant
in ABA/939/2020, ABA/938/2020, ABA/934/2020
and ABA940/2020.

Mr. Adwait Bhonde for the applicant in ABA/1166/2023.

Mr. Shirish Gupte, Senior Advocate with Ms. Aneeta Katariya with Mr. Harsh Kataria with Mr. Kunal Bansal for the applicant in ABA/938/2020.

Mr. Kuldeep Nikam with Mr. Prasad Avhad for the intervener in ABA/938/2020

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 18, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.264 of 2020 registered with Khadki Police Station for offences punishable under sections 177, 406, 408, 417, 418, 420, 426, 468, 120(B) read with section 34 of the Indian Penal Code, 1860 and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999, the applicants are seeking relief under section 438 of the Criminal Procedure Code, 1973.
2. According to the prosecution, auditor noticed illegalities in disbursement of loan for period of 2012 to 2018. It is alleged that the managing committee members of the society misappropriated amount of Rs.3,41,87,328/-, thereby cheating the investors/members of the society.
3. The applicants, therefore, filed applications under section 438 of the Criminal Procedure Code, 1973 before learned Sessions Judge. Learned Sessions Judge by order dated 20th November 2020 rejected the applications. Aggrieved thereby, the applicants have

filed present anticipatory bail application.

4. This Court by order dated 19th January 2021 protected the applicants in all applications except Anticipatory Bail Application No.1166 of 2023, which was filed in 2023. In Anticipatory Bail Application No.1166 of 2023, this Court by order dated 24th April 2023 protected the applicant.

5. On perusal of record, it appears that an inquiry under section 88 of the Maharashtra Cooperative Societies Act, 1960 was conducted. By order dated 7th April 2016, the authorized officer held 16 persons personally liable for causing loss to the society. Five applicants who are before this Court are saddled with personal responsibility to pay an amount of Rs.8,63,541.75/- along with interest. The auditor in his report based on which first information report was lodged held entire managing committee responsible for misappropriation of Rs.3,41,87,328/-. This Court by order dated 24th April 2023 permitted the applicants to deposit the amount as per their share. Accordingly, each applicant has deposited an amount of Rs.26,39,795/- before the trial Court. The amount which is alleged to be loss caused to the society is already deposited by the applicants as per their share which more than the amount fixed by the authorized officer under section 88 of the Maharashtra Co-operative Societies Act, 1960.

6. On perusal of the material on record, it appears that the offences alleged against the applicants are documentary in nature. The nature of allegations against the applicants are of illegal disbursement of loan without following the provisions of the Act,

rules and bars. In a statutory inquiry under section 88, personal liability of the applicants has been adjudicated and are directed to pay an amount of Rs.8,63,541.75/- along with interest. The documents necessary to adjudicate allegations against the applicants are available with the investigating agency. The appeal against order of fixing liability under section 88 of the Maharashtra Co-operative Societies Act, 1960 is pending before the appellate authority. It is not pointed out that the applicants have not cooperated with the investigation as per interim order passed by this Court on 19th January 2021. The interim protection is in force for more than two years. Therefore, custodial interrogation of the applicants is not necessary.

7. For the aforesaid reason, the interim order passed by this Court dated 19th January 2021 stands confirmed on the same conditions.

a) In so far as Anticipatory Bail Application No.1166 of 2023 is concerned, in the event of arrest of the applicant Shashikant Purushottam Jagtap in connection with C.R. No.264 of 2020 for offences punishable under sections 120-B, 177, 406, 408, 417, 418, 420, 426, 468 read with section 34 of the Indian Penal Code, 1860 and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999, he be released on bail on furnishing PR Bond in the sum of Rs.25,000/-, along with one or two sureties in the like amount. Sureties to be furnished within one month from today.

- b) The applicant 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.
 - c) The applicant 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.
 - d) The applicant 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.
8. The anticipatory bail applications stand disposed of.
9. All pending interim applications stand disposed of accordingly.

(AMIT BORKAR, J.)