

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

ANTICIPATORY BAIL APPLICATION NO. 2726 OF 2023

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Shivaji Kisanrao Jagtap and ors. ...Applicants
Versus
State of Maharashtra and anr. ...Respondents

Dr. Rajendra Anbhule, for the Applicants.
Smt. Ashvini Takalkar, APP for the State/Respondent.
PSI Kumar Girigosavi, Nigadi Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 27th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.371 of 2022, registered with Nigadi Police Station, Pimpri-Chinchwad, for the offences punishable under Sections 406, 420, 465, 468 and 471 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. Mr. Vijay Bhoite, the Auditor, Cooperative Societies, lodged a report with the allegation that the Manager and Auditor of the Sambhaji Nagar and Akurdi Branches of the Cooperative Credit Society of which the applicant was a

Director had committed defalcation and misappropriation of the amount to the tune of Rs.17,04,225/- and Rs.29,42,144/- respectively. It was further alleged in the FIR that the office bearers of the Credit Society were also responsible for the said fraud.

4. The learned Counsel for the applicants submitted that by an order dated 24th August, 2023 in ABA/2789/2022 this Court has granted pre-arrest bail to Madhukar Pachpande, co-accused, who was the Chairman of the Credit Society. The said accused was initially granted interim protection. This Court was persuaded to make the order of interim bail absolute observing, *inter alia*, as under.

“3. On 10 October 2022, this Court was persuaded to grant interim relief. It was observed, *inter alia* as under;

“2. The contention of the applicant is that, he was the director of the credit society, during the period from 2008 to 2014. Thereafter, he became chairman of the said co-operative credit society in 2015. He had forwarded a complaint, noticing certain irregularities in the Co-operative credit society. While rejecting application for anticipatory bail, the Sessions Court has observed that, the applicant was director at the relevant time and it is difficult to accept that he had no knowledge about the irregularities. The FIR or the order rejecting application for anticipatory bail does not indicate any concrete evidence about miss-appropriation of amount of the Co-operative credit society or indulgence of the applicant in the miss-appropriation.”

4. Learned APP on instructions submits that pursuant to the order passed by this Court, the applicant had appeared before the Investigating officer.

5. From the perusal of the FIR, it becomes evident that the role of defalcation and misappropriation at Sambhaji Nagar and Akurdi Branches of the Co-operative Credit Society, of which the applicant was a director during the relevant period, has been attributed to then the Chief Manager and Auditor.

6. Learned Sessions Judge, declined to exercise the discretion in favour of the applicant, as the applicant, in the view of the Sessions Judge, ought to have exercised better supervision and control over the affairs of the management.

7. The applicant's involvement in the alleged misappropriation is not *prima facie* made out. In the circumstances, I am impelled to make the interim order absolute."

5. The learned APP fairly submitted that the applicants are similarly circumstanced. In view of the above, the applicants also deserve the exercise of discretion.

6. Hence the following order:

: O R D E R :

(i) In the event of arrest of the applicants in CR No.371 of 2022, registered with Nigadi Police Station, Pimpri-Chinchwad, the applicants be released on bail on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.

(ii) The applicants shall cooperate with the investigation and attend Nigadi Police Station on

every Saturday in between 10.00 am. to 1.00 pm.
for a period of one month.

- (iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any person acquainted with the facts of the case.
- (iv) The applicants shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]