



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.451 OF 2023

Dipak s/o Tukaduji Shende Vs. State of Maharashtra, through PSO, PS
Bhandara, Dist. Bhandara.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri K.S. Motwani, Advocate for applicant.
Shri I.J. Damle, APP for non-applicant/State.

CORAM : M.W. CHANDWANI, J.
DATE : SEPTEMBER 26, 2023.

The applicant is apprehending his arrest in connection with Crime No.323/2023 registered with Police Station, Bhandara, District Bhandara for the offences punishable under Sections 406, 409 and 420 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. The First Information Report (FIR) lodged by the Special Accounts Inspector, Cooperative Societies alleging misuse and misappropriation of funds by the Board of Directors, Branch Manager, and Accounts Inspector of Gurukrupa Urban Credit Cooperative Society Limited. It is stated in the FIR that during the audit inspection of the accounts, the following illegalities have been found.

- i. Misuse of the huge amount of Rs.17,42,773/- for transfer of the branch to new rented premises, its renovation and inauguration thereby causing financial loss to the society.
- ii. For the operation of Core Banking Computer/ Net/Software and maintenance huge amount was spent and thus funds of society were misused and misappropriated and as such causing loss to society.
- iii. Excess commission paid to the Agents than the sanctioned limit thereby misappropriating the society's funds.
- iv. Excess commission paid to the Agents for Fixed Deposit, Recurring Deposits and other schemes thereby violated the bylaws and misappropriated the society's funds.
- v. By writing off the loans thereby causing the loss to the society.
- vi. Without obtaining permission from the Registration Officer a collection center at Adyal has been opened thereby misappropriating society's funds.
- vii. Without relocating or closing the branch, which is in loss and making unnecessary expenses on it thereby putting the society in economic crisis and misappropriating the society's funds.

viii. Huge financial loss caused due to non-mortgaged, forged and bad debts and misappropriation of funds.

3. Thus, there are allegations that the Directors of the Society put to the loss to the tune of Rs.12,32,86,215/- by spending a huge amount on the counts mentioned above. The allegations against the present applicant are that he was Director when the expenses were approved for transferring the branch, renovation and inauguration of the branch office of the society and in meetings in which the applicant was present.

4. Heard learned counsel for the applicant as well as learned APP for the State. I have gone through the charge-sheet.

5. It is the contention of the learned counsel for the applicant that the applicant has no concerns about the events post-retirement of the applicant from the post of Director. According to him, the applicant is retired in the year 2018. He submits that only just because the applicant did not object to the expenses incurred on the renovation, transfer and inauguration of the branch office in the meeting of Directors, it cannot be said that the applicant committed any criminal offence muchless misappropriation of funds. He

submits that there is no material available on record to show that any amount is transferred to the applicant. According to him, other Directors are also released on bail. He submits that the investigation is completed and charge-sheet is filed. Hence, prays for anticipatory bail.

6. Learned APP for non-applicant State, on the other hand, submits that the applicant was present in the meeting of Directors, wherein the aforesaid expenses were approved. Therefore, the applicant is actually involved in the crime. Hence, objected to the bail application.

7. Perusal of charge-sheet transpires that the audited report objected on eight counts and the applicant was Director only when the expenses for the transfer, renovation and inauguration were approved in the meeting of the Directors. All other instances on which audited objection is taken on post-retirement of the applicant as a Director. A perusal of the minutes in which the said expenses were approved goes to say that the President of the Gurukrupa Urban Credit Cooperative Society Limited did propose for approving the expenses. To which, some of the Directors objected who have been granted anticipatory bail by the learned Additional Sessions Judge. This applicant has supported the proposal of approving the said expenses.

There is no allegation that the actual amount has been given to the applicant for expending on the renovation, inauguration of new premises and on transfer of branch to new premises. Even there is no allegation that the approved amount was misappropriated by the present applicant. The main accused President was already arrested and is released on bail. The investigation is already completed and charge-sheet has already been filed. In view of the above and considering the nature of the allegation against the applicant, the application deserves to be allowed. Hence, I proceed to pass the following order:

ORDER

- i. The criminal application is allowed.
- ii. In the event of arrest in Crime No.323/2023 registered with Police Station, Bhandara, District Bhandara for the offences punishable under Sections 406, 409 and 420 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, **applicant – Dipak S/o Tukaduji Shende**, be released on anticipatory bail on furnishing P.R. Bond in the sum of ₹20,000/- with one solvent surety of like amount.

iii. The applicant shall not tamper with the prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

iv. The observations made in this order are *prima facie* in nature. The trial Court shall not get influenced by the observations made in this order.

With this, the application is disposed of.

JUDGE

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