2024:BHC-AUG:12387

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 491 OF 2024

ARUN DATTOPANT PURNAPATRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.
...
Mr. N.G. Ghanekar, Advocate for the applicant,
Mr. A.V. Lavte, APP for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 28th JUNE, 2024.

ORDER :-

The applicant/accused seeks regular bail in connection with Crime No. 307 of 2023 registered with Satara Police Station, District Aurangabad for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 120-B, 217 r/w. 34 of IPC and under Section 3 and 4 of the M.P.I.D. Act and U/section 81(1)(B) of the Maharashtra Co-operative Societies Act.

2. Mr. Dattatray Dhumal was assigned the job of Auditor in respect of Devai Mahila Cooperative Credit Society at Aurangabad for the period 01.04.2022 to 31.03.2023. During audit he observed serious irregularities in the conduct of business of the society. The society was run in flagrant violation of the Cooperative Societies Act, Rules and Bye-laws. He noticed that during the period from 1.4.2022 to 31.3.2023, huge amount has been siphoned by way of loan disbursement and the

amount has been misappropriated by the Chairman and Managing Director of the society, who are husband and wife. Consequently, the auditor lodged FIR vide Crime No. 307 of 2023. The FIR highlights 7 major transactions of loan out of which 6 transactions are in the name of the firms/companies under the control of Mrs. Meena Mahadeo Kakade, Chairman and Mr. Mahadeo Achyut Kakade (Managing Director). The cash credit loan worth Rs. 3,20,00,000/- (Three Crores twenty Lakhs) has been disbursed/encashed without security. The total cash credit worth Rs. 13,83,89,101/- is made without following due process of law. The investment with ICICI Bank worth Rs. 8,07,25,651/- was falsely shown. The FIR clearly alleges that all the transactions are done by the Chairman and Managing Director of the society. Accordingly, Crime No. 307 of 2023 was registered on 29.9.2023 with Satara Police Station, Aurangabad for the aforesaid offences.

3. The applicant, who was the Chief Manager of the Society came to be arrested on 27.11.2023. His earlier bail application was rejected by the Sessions Court on 11.12.2023. therefore, he filed Bail Application NO. 2320 of 2023 before this Court, which was withdrawn on 10.1.2024 with liberty to file application after filing of charge sheet. After completion of investigation and consequential filing of Charge sheet, the applicant filed fresh application for regular bail in Special Case (MPID) No. 51 of 2024 below Exh.6. The learned Sessions Judge rejected the said application vide order dated 23.2.2024. Hence, the applicant is before this Court.

4. Mr. N.S. Ghanekar, learned advocate for the applicant vehemently submits that the applicant is behind bars for almost 7

months. Investigation in the matter is complete. Charge sheet is filed. Further detention of the applicant would not be necessary. He would further submit that although the applicant was employed as Chief Manager, all the transactions of the cooperative credit society/bank were controlled by the Chairman and Managing Director. The applicant is not party to any disbursement. The role attributed to the applicant is that he signed the balance sheet and about 3 investors/depositors of the bank gave the statement that applicant assured them of interest rate @ 12% p.a. on the investment and persuaded them to invest in the bank.

5. Mr. Ghanekar would further point out that after registration of the crime, the applicant was very much available in the bank. He cooperated the investigating agency. He made available the entire record. The applicant himself is a victim of the crime as he had deposited amount in the bank and Chairman and Managing Director have siphoned all the amount without knowledge of the applicant.

6. Per contra, learned APP submits that the balance sheet has been signed by the petitioner. The accounts do not tally with the balance sheet. The petitioner was holding key position of Chief Manager and no transaction would have taken place without his knowledge. Till the date, the Chairman and Managing Director are absconding. Although charge sheet is filed, further investigating would be necessary after arrest of the main accused persons. The witnesses have clearly stated about applicant's role in inviting deposits with the bank. The offences are serious in nature. Release of the applicant may hamper smooth trial. Section 3 of the MPID Act would clearly attract against the applicant.

7. Having considered the submissions advanced, it can be observed that the applicant was designated as Chief Manager of the Devai Mahila Cooperative Credit Society. Charge sheet contains the document which depicts that balance as on 31.3.2023 has been signed by the petitioner alongwith Chairman and Secretary of the society. The statements of 3 investors are made part of the charge sheet who are relatives or neighbours of the applicant. They alleged that investments were made by them on persuasion of the applicant. Except this evidence, there is nothing in the charge sheet that would show his complicity in offence with co-accused. There is nothing on record to show that applicant has derived any financial benefit or advantage while working as Chief Manager of the Society.

8. The FIR clearly states that large portion of the amounts were disbursed in the form of cash credit to six firms owned by the Chairman and Managing Director. No role is attributed to the applicant in disbursement of the said amount. Other loan transactions do not show that applicant has played any role or he was signatory to any such resolution that led to disbursement of the amount. Prima facie, there is reason to believe that the applicant was employee of the credit society and nominal Chief Manager having no authority in the matter of disbursement of loans. The possibility that applicant was aware of the illegal activities of the Chairman and Secretary cannot be ruled out. The applicant appears to have given a statement to auditor on 26.7.2023, wherein, he clarified that irregularity in conduct of the business of the bank was time and again pointed out by him to the Chairman and Managing Director of the Society. All such transactions were controlled and managed by them. Applicant has no authority to deal with such

transactions.

9. Taking the survey of the aforesaid facts and particularly, when the applicant is behind bars for more than 7 months, no purpose would be served by continuing his detention. There are no criminal antecedents to the discredit of the applicant. He is permanent resident of Aurangabad. Therefore, case is made out for grant of bail subject to certain conditions. Hence, the following order :-

O R D E R

(i) The Bail application is allowed.

(ii) Applicant – Arun Dattopant Purnapatre, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in connection with Crime No. 307 of 2023 registered with Police Station, Satara, Dist. Aurangabad, for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 120-B, 217 r/w. 34 of IPC and under Section 3 and 4 of the M.P.I.D. Act and U/section 81(1)(B) of the Maharashtra Co-operative Societies Act. following conditions :-

(a) The applicant shall attend each and every date before the trial court unless specifically exempted.

(b) The applicant shall not tamper with the prosecution evidence.

(iii) Application stands disposed of accordingly.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-