**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO.574 OF 2024**

Pandit S/o. Bajirao Kawte,
Age: 66 years, Occ. Retired
R/o. NS-44, Krusnai, 12th Scheme,
Shivaji Nagar, CIDCO, Aurangabad. ..Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector, CIDCO Police Station,
Aurangabad.

2. Superintendent of Police, Aurangabad
Tq. & Dist. Aurangabad. ..Respondents

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Mr. S. S. Tope, Advocate for the Applicant.
Mrs. Komal Kandharkar, Special PP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 23rd AUGUST 2024.**

ORDER:-

1. The applicant seeks pre-arrest bail in connection with Crime No.455/2023 dated 11.07.2023 registered with CIDCO Police Station, Dist. Aurangabad for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 120-B, 217 r/w 34 of the Indian Penal Code, Sections 3 and 4 of the M.P.I.D. Act and Sections 21 and 23 of the Banning of Unregulated Deposit Scheme Ordinance, 2019.

2. The investigation was set in motion on the basis of information given by Mr. Sudhakar Karbhari Gaike, Special Auditor, Class-II, Co-operative Societies, Aurangabad alleging that as per directions of Deputy District Registrar, Co-operative Societies, Aurangabad, he conducted test audit of Adarsh Nagari Sahakari Pat Sanstha Limited, for the period from 2018 to 2022. It has been noticed that cash credit loans have been disbursed

contrary to the provisions of Maharashtra Co-operative Societies Act and bye-laws of the Society. In all 24 cash credit loans have been disbursed with intention to misappropriate funds by adopting fraudulent means by Directors, employees of society in connivance with borrowers and guarantors of the loans. In all 23 loan have been disbursed from March 2019 to 2021 without appropriate loan applications and requisite security. In meeting dated 30.04.2019 Board of Directors approved such loans ignoring serious deficiencies in loan proposals. It is further alleged that the amount involved in misappropriation is Rs.99,07,90,579/-. The Auditors responsible for audit of the Society have failed to discharge their obligations in terms of Section 81(5)(B) of the Maharashtra Co-operative Societies Act, 1960. As such, Chairman, Board of Directors, borrowers, guarantors, Chief Manager, Branch Managers, Heads of the loan department and other employees of society are responsible for commission of offence.

3 The applicant is shown as accused no.14 in the FIR being Chief Manager of the Credit Society. The applicant moved an application under Section 438 of the Code of Criminal Procedure seeking pre-arrest bail in Criminal Bail Application No.83/2024 before Sessions Court at Aurangabad. However, his application came to be rejected vide order dated 28.03.2024. Hence, this application.

4. Mr. Tope, learned Advocate appearing for the applicant submits that applicant has been falsely implicated in aforesaid crime. The applicant previously worked as Manager of Jalna District Central Co-operative Bank and after his retirement, he took job with Adarsh Credit Society. He was appointed vide order dated 31.08.2021 and joined his duties from 01.09.2021. The applicant resigned from the said post on 28.03.2023. The Board of

Directors approved his resignation and relieved him vide communication dated 01.04.2023. Mr. Tope would submit that loan transactions which are subject matter of present crime are for the period from March 2019 to March 2021. The applicant is noway concern with the aforesaid loans. The applicant had rendered unblemished service with Jalna District Central Co-operative Bank and after his retirement he took job with Adarsh Credit Society. No specific allegations are incorporated against applicant in FIR or charge-sheet. He is old aged person. His custodial interrogation is not required. The statement of applicant was recorded by Special Auditor on 02.06.2023, wherein he has explained his stand stating that subject loan disbursements are made prior his joining with credit society.

5. Mr. Tope would further submits leasehold property was purchased by Adarsh Credit Society to start new branch. The amount of consideration has been paid Society to shop owner as per decision of the Board of Directors. No adverse inference can be drawn against applicant only because Board of Directors authorized applicant to get sale deed executed from the shop owner. The applicant is not beneficiary of any alleged loan transactions. The custodial interrogation of the applicant would not be necessary. The investigation in the matter is completed. The charge-sheet is filed. The prosecution is not giving any specific reason requiring custodial interrogation of the applicant.

6. Per contra, Mrs. Kandharkar, learned Special PP vehemently opposes application. She would submit that applicant was Chief Manager of Credit Society for considerable period. The loans which were sanctioned in the year 2019 were renewed every year without their being any repayment. The false reversal entries after 31st March can be seen in the loan account statement. She invites

attention of this Court to the statement of witnesses namely Mohan Ramdas Chauhan, Badrinath Kachkure, Narayan Kachkure, Vitthal Kakde, Kadar Shah Umar Shah etc. to point out that false loan files were created in the name of various persons and such loan files were renewed in various meetings from 11.05.2021 to 31.03.2022. The applicant was Chief Manager during said period, he cannot be ignorant of such transactions.

7. Having considered submissions advanced by the learned Advocates appearing for the respective parties and after considering material in the charge-sheet, it is apparent that applicant has worked as Chief Manager of the Credit Society for the period of almost 19 months. Although most of the loan disbursements which are subject matter of crime are prior to tenure of applicant, there are certain renewals of dubious loans during his duty period as Chief Manager. The sale transaction in respect of property clearly shows role of the applicant. The huge transaction is appearing under sale deed. The amount paid under such transaction is not properly accounted. The investigation in this regard requires custodial interrogation of the applicant.

8 In this background release of applicant by granting pre-arrest bail may prejudice investigation in the matter. The applicant has never raised voice as regards to the illegalities during the period of his service of 19 months. In that view of the matter, no case is made out to grant protection of pre-arrest bail.

9. Consequently, Anticipatory Bail Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE