



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

ANTICIPATORY BAIL APPLICATION NO. 721 OF 2024

. Nitesh s/o Shankar Pawar
Age: 35 years, occu.: Private Service,
R/o. Jategaon, Tq.Georai, Dist.Beed. ..Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra
Through Police Station Officer,
Ambad Police Station,
Dist.Jalna.
2. The Superintendent of Police,
Jalna, Dist.Jalna. ..Respondents

...

**WITH
CRIMINAL APPLICATION NO. 2319 OF 2024
IN ABA/721/2024**

....

Advocate for Applicant in ABA/721/2024 : Mr. Vilas P. Savant
Advocate for Complainant in Cri.Appln./2319/2024 : Mr. K.P. Rathod
APP for Respondent no.1 : Mr. K.K.Naik

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 04 JULY, 2024

PRONOUNCED ON : 05 JULY, 2024

ORDER :-

1. Criminal Application No.2319 of 2024 is filed by
complainant seeking permission to assist Public Prosecutor.

Permission is granted. Criminal Application No.2319 of 2024 is allowed and disposed of.

2. Apprehending arrest in Crime No.0820 of 2023 registered at Ambad Police Station, Dist.Jalna for offence under Sections 420, 406 read with 34 of the Indian Penal code and Sections 3, 4, 5 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act (for short “MPID Act), applicant is praying for grant of anticipatory bail.

3. Taking this court through the FIR, learned Counsel for the applicant submitted that there is false application. That merely applicant happens to be brother of main accused. He submitted that main accused, brother of applicant, is already beneficiary of regular bail, by virtue of order passed by trial Court in January 2024. Alleging false implication, it is submitted that there was no direct conversation, meeting or any assurance of investment and returns by present applicant. That he was never present with his brother when there were said to be talks with complainant. He further pointed out that even there is no

prompt FIR, rather it is after three months. According to learned counsel, considering the allegations in FIR, provisions of MPID Act cannot be attracted. He further submitted that now almost entire investigation is over and case pertains to documentary evidence. That all documents are already with investigating machinery. He further pointed out that after grant of interim anticipatory bail, he had approached Police thrice, but no enquiry was made and therefore, according to him, it is clear that his custodial interrogation is not necessary. That he is ready to co-operate with the investigating machinery and hence, seeks confirmation of interim anticipatory bail by allowing the application.

4. Learned APP for State as well as learned counsel for complainant, who has intervened, have resisted the above application. They both took this court through the papers and submitted that present applicant is Chairman of the so called financial institution of which main accused is Secretary. That they both are brothers. That huge amounts are taken by giving false assurance of handsome returns of 18%. Learned APP

pointed out that amount of Rs.62 lakhs is yet to be recovered and investigation is still incomplete. That investigation revealed that present applicant had withdrawn Rs.9 lakhs, therefore, his involvement is clearly established and for further proper and effective investigation, according to learned APP, custodial interrogation is necessary. He pointed out that Police machinery has already taken steps to secure presence of the applicant after he succeeded in getting interim anticipatory bail.

Learned counsel for complainant pointed out that similar crime is registered against main accused, who is applicant's brother and in that case he is behind bars. For all above reasons, they both prayed to reject the application.

5. Heard both the sides. Perused the papers.

6. On 09-05-2024, interim anticipatory bail application was pressed into service. On that date, learned APP had sought time to collect papers from investigating machinery. Therefore, considering such circumstances, on 09-05-2024 interim anticipatory bail is granted.

Today learned APP has placed on record investigation papers. On going through the papers, it seems that Crime No.0820 of 2023 is registered at Ambad Police Station, Dist.Jalna on 11-12-2023 for commission of offence under Sections 420, 406, 34 of the IPC and 3, 4 and 5 of the MPID Act. Sum and substance of the FIR is that main accused Sandesh, who is Secretary and present applicant, who is Chairman, are running Jivandeep Urban Multipurpose Credit Society. They both seem to be brothers. There are allegations that assurances are given about 18% interest on deposits ranging from Rs.50 lakhs to Rs.1 crore. Complainant claims that main accused interacted with him and assured above hand-some returns and on believing him, complainant claims that he deposited around Rs.36 lakhs at various times. No bonds were issued and after waiting for considerable time, FIR seems to be lodged. Name of present applicant is also reflected in the FIR and undisputedly he is brother of main accused and moreover, there is no dispute that present applicant is Chairman of the aforesaid Credit Society.

7. According to learned APP, investigation is yet in progress. Aspects as to whether provisions of the MPID Act would be attracted or not cannot be gone into at this stage.

8. Considering the nature of allegations and today having gone through the investigation papers, though main accused is beneficiary of regular bail, in the light of above discussion, this Court is not inclined to confirm the interim anticipatory bail and resultantly application is required to be rejected. Accordingly, I proceed to pass following order :

ORDER

Anticipatory Bail Application No.721 of 2024 stands rejected.

**(ABHAY S. WAGHWASE)
JUDGE**