**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.801 OF 2024**

Vanita W/o. Sunil Patil
Age: 42 years, Occupation: Homemaker,
R/o. Shivjyoti Colony, N-6,
CIDCO, Aurangabad,
Tal. and Dist. Aurangabad, Maharashtra. ..Applicant

Versus

The State of Maharashtra,
Through the Police Inspector/Investigating Officer
in Crime No.0455/2023,
CIDCO Police Station, Tal. and Dist. Aurangabad. ..Respondents

…

Mr. Abhaykumar Dilip Ostwal, Advocate for the Applicant.
Mrs. Komal Kandharkar, Special PP for Respondent-State.

…

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

**ORDER:-**

1. The applicant seeks regular bail in connection with Crime No.455/2023 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 Act, 2019.

2. The investigation was set in motion on the basis of information given by Mr. Sudhakar Karbhari Gaike, Special Auditor, Class-II, Cooperative Society, Aurangabad. It is alleged that in pursuance of directions given by District Deputy Registrar, Co-operative Society, Aurangabad (for short 'DDR, Aurangabad'), he conducted audit of Adarsh Nagari Sahakari Pat Sanstha Limited for the period from 2018 to 2022 and submitted audit report dated 13.06.2023 to DDR, Aurangabad. It is alleged that on examination of various loan applications and relevant documents it

was noticed that cash credit loans were disbursed in contravention of provisions of Co-operative Societies Act, Rules and bye-laws of the Society. The accused persons who are Directors, employees, borrowers and guarantors of loans have misappropriated large sum by adopting fraudulent means and duped depositors and members of the Society. It is alleged that during the period from March-2019 to 2021, in all 23 loans were disbursed without adequate security. The Board of Directors during meeting dated 30.04.2019 conveniently ignored serious irregularities and facilitated disbursement of dubious loans, thereby causing serious prejudice to the interest of depositors. It is further alleged that statutory Auditors also failed to submit report to the Registrar and adhere with statutory obligations under Section 81(5)(b) of the Maharashtra Co-operative Societies Act. The accused persons are responsible for misappropriation of amount of Rs.99,07,90,579/-.

3. In pursuance to the aforesaid information Crime No.455/2023 came to be registered with Police Station CIDCO, Aurangabad against accused persons. The applicant has been arrested on 06.10.2023 being Vice President of Adarsh Jan Kalyan Pratisthan Private Limited with co-borrower Sai Sons and Company, who obtained loan of Rs.20,17,036/- vide Account No.03174000003 and same is in default of Rs.76,50,896/-. Similarly, vide loan Account No.174/148 the amount of Rs.1,95,90,156/- has been disbursed to the Adarsh Jan Kalyan Pratisthan.

4. Mr. Ostwal, learned Advocate appearing for the applicant submits that applicant has been falsely implicated in aforesaid crime only because she is from family of main accused. The investigation in the matter is complete. The charge-sheet is filed. In connected Crime No.454/2023, the applicant is already enlarged on bail. The applicant is a lady. She is behind the bar since

06.10.2023. On 04.12.2023 supplementary charge-sheet is filed. The applicant moved application for grant of regular bail before the Sessions Court. However, same has been rejected vide order dated 02.05.2024. Mr. Ostwal would further submit that applicant has been already exonerated vide order dated 16.05.2024 passed by DDR, Aurangabad in recovery of loan proceedings, which are subject matter of crime observing that she was not party to the loan proposal and disbursement of loan of Rs.1,95,90,156/- on 31.03.2019.

5. Per contra, Mrs. Kandharkar, learned Special PP vehemently opposes the prayer for grant of bail. She would submit that being Vice President of Adarsh Jan Kalyan Pratisthan applicant is responsible for loan transactions. She would point out that applicant was committee member of Adarsh Jan Kalyan Pratisthan. The cash credit facility is availed. There are transactions in personal account of applicant, which shows her to be beneficiary of various loan transactions. By inviting attention of this Court to the account statements, some transactions in the name of the applicant are also brought to the notice of this Court. The attention of this Court is also invited 161 statement of Mr. Ashok Mugdal, an employee of Adarsh Mahila Co-operative Bank, to urge that applicant has actively participated in the business of Adarsh Jan Kalyan Pratisthan and responsible for misappropriation of amount.

6. Having considered submissions advanced by learned Advocates appearing for the respective parties and on perusal of record produced before this Court, apparently applicant was Vice Chairman of Adarsh Jan Kalyan Pratisthan, who has availed three loans from Adarsh Nagari Sahakari Co-operative Credit Society.

So far as transactions till March 2019 are concerned, those are covered in Crime No.455/2023. The present offence pertains to transactions from 2019 to 2021. Although it is sought to be contended on behalf of the applicant that she was not Director of Adarsh Jan Kalyan Pratisthan, *prima facie*, such submissions are not acceptable. The supplementary charge-sheet shows some doubtful transactions in personal account of applicant worth Rs.1.5 crores. The applicant is also accused in Crime No.454/2023 and she has been already enlarged on bail, wherein majority of transactions are covered. The material in charge-sheet, *prima facie*, indicates role of the applicant in subject transactions.

7. However the fact remains that applicant has been enlarged on bail in connected offence. The transaction in both offences are interlinked. The applicant is behind bar since 06.10.2023 i.e. more than 10 months. She is a lady. The investigation in the matter is completed. The charge-sheet and supplementary charge-sheet has been filed. According to the learned Special PP forensic audit is yet to be received. Thereafter matter can be taken up for framing of charge and the trial. In view of the aforesaid submissions it is evident that trial is not likely to commence in recent future. Further considering the voluminous evidence relied by the prosecution, in all probabilities, trial is likely to be prolonged. The prosecution is not in a position to assure expeditious disposal of trial.

8. The questions as to whether applicant is personally responsible for misappropriation and whether charges leveled against her can be established on the basis of material in charge-sheet are questions to be deliberated during the course of trial. The interest of prosecution can be protected by imposing certain

conditions for release on bail. However, there is no reason to permit further detention of the applicant in the facts and circumstances of the case. In this background, reference to the observations of the Supreme Court in case of ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another*** (***Criminal Appeal No.2787/2024***) dated ***03.07.2024*** would be necessary, which states as under:

> *"19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."*

9. Applying aforesaid principles of law in the fact of the present case, further detention of the applicant need not be permitted. Hence, case is made out for grant of bail subject to certain conditions. Hence, the following order:

**ORDER**

(i) Bail Application is allowed.

(ii) The applicant, Vanita W/o. Sunil Patil be released on bail in Crime No.455/2023 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 and Sections 3 and 4 of the M.P.I.D. Act and Sections 21 and 23 of the Banning of Unregulated Deposit Scheme Act, 2019 on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) on following condition:

a. The applicant shall not tamper with the prosecution evidence in any manner or pressurize witnesses.

b. The applicant shall attend each and every effective date of hearing before Sessions Court in Special Case No.420/2023.

c. The applicant shall not leave State of Maharashtra without prior intimation and submission of itinerary with the Sessions Court.

(iii) Application is disposed of.

**(S. G. CHAPALGAONKAR)**
**JUDGE**

Devendra/July-2024