IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 ANTICIPATORY BAIL APPLICATION NO. 909 OF 2024

BALKISHAN PANDURANGJI MUNDADA
….Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER
…..Respondents

Mr. Rajendrraa Deshmukkh, Senior Advocate a/w Mr. Jay Veer, Advocate and Mr. Jojagire M. Salve, Advocate i/b Mr. Devang R. Deshmukh, Advocate for applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 907 OF 2024

GANGADHAR JAWAHARLALJI DHOOT
.....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER
.....Respondents

Mr. Rajendrraa Deshmukkh, Senior Advocate a/w Mr. Jay Veer, Advocate and Mr. Jojagire M. Salve, Advocate i/b Mr. Devang R. Deshmukh, Advocate for applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 906 OF 2024

PANDURANG MATHURALAL KACHOLIYA
.....Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER
.....Respondent

Mr. Rajendrraa Deshmukkh, Senior Advocate a/w Mr. Jay Veer, Advocate and Mr. Jojagire M. Salve, Advocate i/b Mr. Devang R. Deshmukh, Advocate for applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 902 OF 2024

OMPRAKASH KANHAYALALJI MUNDADA

.....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. Anil S. Bajaj, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 901 OF 2024

BALAPRASAD BANSILAL BIDADA

.....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. Vinod D. Gobharle, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 900 OF 2024

SATYANARAYAN BANSILAL HEDDA

.....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. Kishor J. Ghute Patil, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 899 OF 2024

SATYANARAYAN PANNALALJI LADDA

.....Applicants

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. Swapnil S. Rathi, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 897 OF 2024

GOVIND GOPALDAS KOTHARI

.....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. Sachin S. Deshmukh, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 918 OF 2024

KAMLAKAR RAJARAMPANT KULKARNI

.....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondents

Advocate Tiwar, h/f Mr. Mahesh S. Deshmukh, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 913 OF 2024

GOVIND LAXMINARAYAN PAREKH

.....Applicant

VERSUS

THE SUPERINTENDENT OF POLICE AND ANOTHER

.....Respondents

Mr. S. S. Gangakhedkar, Advocate a/w Mr. S. R. Mantri, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

AND

ANTICIPATORY BAIL APPLICATION NO. 910 OF 2024

GOKULDAS MAGANLAL CHANDAK

.....Applicant

VERSUS

THE SUPERINTENDENT OF POLICE AND ANOTHER

.....Respondents

Mr. P. P. More, Advocate for the applicant
Mr. S. M. Ganachari, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 13th AUGUST, 2024

P. C.

1. Since these applications are arising out of the same crime, the applications are taken together.

2. The informant lodged the information with Gandhi Chowk Police Station, Dist. Latur on 09-04-2024 bearing Crime No. 0234/2024 for the offences punishable under Sections 406, 420, 409 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999. The present applicants are shown as accused Nos. 13 to 23.

3. It is stated in the information that the informant happened to be a Tax Consultant in Latur. For his financial planning in the old age, he deposited an amount in one Rajasthani Multi Credit Co-operative Society, Parali Vaijinath in its branch at Latur. Accused Nos. 1 to 12 are said to be Directors, accused No.13 to 23-present applicants are said to be members of the Local Advisory Board. He invested the said amount because of these accused persons. He was induced by all the accused persons and he was assured that he will get better returns, if the amount is deposited in the society. Because of this inducement, he deposited his amount by withdrawing the

amount from other banks, in various FDRs. On 21-12-2023 he made an application seeking refund of amount deposited in fixed deposits. On his application, he received phone call from the members of the Managing Committee of the society informing that the society is not in a position to refund the amount for the present and requested him to purchase the properties which are purchased out of the money of the society. On this he lodged the complaint stating that the Members of Board of Directors have utilized the bank amount for their own purpose and they have also spent an amount on advertisement etc. Some amount is irresponsibly donated for public purpose. Therefore, society is running into loss.

4. Present applicants are shown to be accused in the said offence who are said to be Local Advisors. Apprehending arrest these applicants approached the learned Sessions Judge by filing individual applications. Initially interim relief was granted by protecting applicants from the arrest. Ultimately by order dated 29-05-2024, applications came to be rejected by the

learned Judge. The orders are passed separately. The applicants, are thus before this court.

5. Learned Senior Advocate Mr. Deshmukh in Application No.906/2024, 907/2024 and 909/2024 submits that the period stated of the offence is from 11-08-2022 till 13-11-2023. Whereas information is lodged on 09-04-2024. Thus, there is delay in lodging the FIR. Looking to the contents of the FIR no specific role is alleged or attributed to these applicants. Society is from Parali having its branch at Latur. The applicants are neither Directors nor the persons responsible for the affairs of the society in any capacity. They are only stated to be Local Advisors. There is no such post as such in the bylaws of the society or even under the Act. There is specific Board of Directors who are elected to look after the affairs of the society. These applicants have no any control over the society or they are not remotely concerned with the day-to-day affairs of the society. There is no power vested with any of these applicants. Allegation in the FIR is only that the informant was not

permitted to withdraw the amount of the deposits. Three of such fixed deposits are to mature in the year 2025. The application in respect of those three FD was made much prior to its maturity. So far as section 3 of the MPID Act is concerned, he submits that ingredients are not at all present so far as the present applicants. Sections 406, 409 read with Section 34 of the IPC are not made out. So far as investigation is concerned, he submits that practically the investigation is now over. Documents are already seized. There is no allegation that the amount is either misappropriated by these applicants or that there was entrustment of the amount with them. Inducement as stated in the FIR is not against any particular persons and the allegations are very vague. Thus, even ingredients of section 420 are not attracted. There is no allegation that any of the applicants have changed by any of the transactions of the bank and thus there is no custodial interrogation is now required. He points out circular dated 03-07-2017 issued by Ministry of Agriculture and Farmers Welfare. The said circular is issued looking to the fact that there are various Multi States Cooperative Societies which attract the deposits of the depositors. It is made mandatory to display warning at entrance of the society or branches informing the depositors that deposits made are at their own risk. By circular dated 25-06-2021, further it is clarified that if such warning is not displayed that would be taken as violation of the rules. He, thus, submits that in every society there is such warning given and thus there is no question of any one inducing the informant or the depositors. Showing these applicants as accused is only an attempt to bring pressure on the society. He submits that the applicants have attended the police station whenever called by the Investigating Officer pursuant to the interim order passed by this court and there is no complaint in that regard. He thus, submits that these applicants are unnecessarily implicated and prays for allowing the application by confirming the earlier order of interim relief.

6. Mr. Sachin Deshmukh, learned advocate for the applicant in Application No.897/2024 adopts the arguments of Mr. R. S. Deshmukh, learned senior advocate. He submits that

all resolutions etc. are passed by the Members of the Board of Directors, Chairman, Vice Chairman, CEO, Deputy CEO etc. No role is assigned to the Local Advisors.

7. Mr. Bajaj, learned advocate for the applicant in Application No.902/2024 submits that by laws do not make provision for Local Advisors. His client neither attended any meeting of the society nor played any role in such meetings. His name is published by the society as Local Advisor. He submits that there is no election or there is no even application made by the applicant. At the most he had opened one account in the said society. However, thereafter there was no transaction. His client has not received any notice from the society.

8. Mr. Rathi, learned advocate for the applicant in application No. 899/2024 submits that his client is senior citizen of more than 75 years of age. He submits that this additional factor needs to be considered in this case.

9. Mr. Kishor Ghute Patil learned advocate for the applicant in Application No.900/2024 submits that the applicant in his case is retired as MSEB employee. He never had in relation with the society. There is no specific allegations against his client.

10. Mr. Tiwari, learned advocate for the applicant in application No.918/2024 submits that at the most role alleged to his client is that his property is shown on the letter head of the society as property of the society. His client is also a pensioner and he has no role in any of the transactions.

11. Opposing the applications the learned APP submitted that the applicant in ABA No. 899/2024 happens to be a close relative of the Chairman. Branch at Latur is established because of this applicant. He has made some recommendations for giving some jobs to his close persons in the society. So as far as applicant in application No. 918/2024 is concerned, he submits that one of the properties of this applicant is shown to be a

property of the society on its letter head. The blank cheques and some other documents like bonds etc. were found in the office of the society. This applicant is also a member of Latur Education Society wherein the main accused i.e. Chairman of the society is also a member. Rent of the property is paid from the account of society. There is suspicion that he has purchased some properties in some other cities. Role of these two applicants is different and is in addition to role of other applicants. He submits that depositors have deposited the amount looking at these applicants as these applicants happen to be prestigious persons in the society. He submits that Chief Executive Officer of the bank has invited them to attend the function wherein their contribution in the society in the progress of the society is acknowledged. He submits that in every function these applicants attend the functions of the society. He submits that during the investigation a trust deed came to be seized wherein it is seen that the applicant in ABA 918/2024 and the Chairman of the Bank are on the Managing Body of the said trust. He further submits that some loan is advanced to Kulkarni of Rs.11

core. So far as the applicant in application No.899/2024 is connected with the society. Rent was paid from the account maintained in the society to a building for Latur Education Society. He submits that there are photographs showing that these applicants are actively involved in the functions of the society. There are 1011 depositors who have been cheated. Looking to the magnitude of the offence it is necessary to have custodial interrogation of the applicants. He further submits with the assistance of the Mr. Vrnjane that if section 3 of MPID Act it is any other person responsible in the financial establishment are liable for action and thus all these applicants are added as accused in view of the section 3 of the MPID Act. The informant in this case is 85 years of age. He has deposited his hard earned amount in the society. Role of these applicants is to attract the depositors from the Latur city. For this purpose, they are taken in the society as Local Advisors. It is modes operendi of the society to appoint Local Advisors so as to attract the local depositors. Certain documents are yet to be seized for the purpose of investigation. He thus, submits that the applications deserve to be rejected.

12. To satisfy prima facie this court has seen allegations under Sections 306, 309, 420 read with Section 34 of the IPC and section 3 of the MPID Act. Looking at the FIR there is nothing to show that any property was entrusted with the present applicants. Section 3 of the MPID Act though states that any of other persons including 'Promoter, Partner, Director, Manager or any other person or employee responsible for management or conducting of business or affairs of such financial establishment'. Though the learned APP has pressed on the words '**any other person**', however, it needs to be considered that only '**person responsible for the management or conducting of the business or affairs of such establishment**' is material. There is no material at least, at this stage to show that these applicants are in any way responsible for the management or conducting of the business or affairs of the society. This court finds that breach of trust is made out. This court finds that no case of only vague and omnibus allegations are made that the

accused persons had assured good returns to the depositors and it is because of such, he had deposited the amount. There is no specific name of any of the applicants stated. Thus, in absence of any specific allegations, this court finds that it would not be safe to direct the custodial interrogation of these applicants.

13. Since the applicants have attended the police station, there is no any allegations that they have breached any of the conditions or they have not cooperated in the investigation, this court finds that the applications need to be allowed. Thus, the applications stands allowed by confirming the earlier orders passed in separate applications on same conditions.

14. With this, applications stand disposed off.

15. It is made clear that observations made in this order are strictly for the purpose of deciding present applications only.

[KISHORE C. SANT, J.]

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