IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 920 OF 2024

Vilas Pandit Survase .. Applicant

versus

The State of Maharashtra & another .. Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO. 784 OF 2024

Mahadevi Somnath Swami .. Applicant

versus

The State of Maharashtra & another .. Respondents

Mr. S. J. Salunke, Advocate for the Applicants.
Mr. S. B. Pulkundwar, APP for the State.

CORAM : R. M. JOSHI, J.
DATE :20th JULY, 2024.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No 0015/2024 registered with Sonpeth Police Station, Dist. Parbhani for the offences punishable under Sections 420, 409 read with Section 34 of Indian Penal Code.

2. First Information Report indicates that the same has been filed at the instance of the auditor of Sonpeth Nagari Sahakari

Bank. It is the contention of the informant that during audit of the bank for the year 2022-2023, it was found that the employees collectively have withdrawn the amount towards gratuity fund, reserve fund, audit fees, fixed deposit receipt of one Mr. Zawar etc.

3. Learned counsel for applicants submits that the applicants are working as clerks in the bank and as such had no authority to transfer any amount even into their own account. It is his submission that remand report dated 20.02.2024 indicates that even as per the case of prosecution, mis-appropriation has been done by the Chief Officer of the bank and that present applicants had received the amount towards gratuity, leave encashment and bonus. It is specifically stated therein that they have not received any amount from loan or fixed deposit. It is thus his contention that once the applicants have deposited the amount in this Court, there is no reason to deny anticipatory bail.

4. Learned APP opposed the applications by contending that merely because the amounts are deposited by applicants, that will not make them entitled for anticipatory bail considering their involvement in this crime. It is his submission that the amounts

were credited to the accounts of the employees working as clerks in the bank and it is not possible that without there being consent of the officers of the bank said amount has been transferred to their account. He alleges collusion between applicants and officers of the bank.

5. Perusal of the First Information Report indicates specific amount which is alleged to have been received by the applicants in their own accounts. This gets explained through the remand report dated 20.02.2024 wherein it is specifically stated that those amounts are gratuity, leave encashment and bonus. It is specifically stated that they did not receive any other amount. Thus, at this stage, it cannot be said that the applicants are involved in the alleged mis-appropriation of the funds of the bank or any other depositor etc. Apart from these facts remand report also sufficiently indicates that the Chief Officer of the bank is responsible for the mis-appropriation and that the clerks were compelled to show that said amount has been received.

6. A specific query is made to the learned APP to point out as to whether at the time of transfer of amount in the accounts of

these applicants they had prepared transfer voucher etc. From the perusal of investigation papers it appears that no such evidence has been collected by the Investigating Officer. Thus, at this stage, prima facie, it cannot be said that the applicants are responsible for mis-appropriation of other amounts. As per Audit report whatever amount is claimed to be due from the applicants is already deposited and hence question of recovery of said amount from them also does not arise. Needless to say that the applicants are not having any documents with them in connection with this crime which would require their custodial interrogation. Hence, applications are allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb