**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1028 OF 2024**

Sapna w/o Sanjay Nirmal,
Age: 47 years, Occ: Household,
R/o. H. No.26-15, Tanaji Nagar,
N-2, CIDCO, Aurangabad. ..Applicant

Versus

The State of Maharashtra,
(Through CIDCO Police Station,
Aurangabad) ..Respondent

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Mr. N. S. Ghanekar, Advocate for the Applicant.
Mrs. Komal Kandharkar, Special PP for Respondent-State.

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

ORDER:-

1. The applicant seeks regular bail in connection with Crime No.454/2023 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 complaint given by Dhananjay Hiralal Chavan, Special Auditor, Class-II alleging that in pursuance of the order of District Deputy Registrar, Aurangabad he conducted test Audit of Adarsh Nagari Pat Sanstha Maryadit for the period from 2016 to 2019. He noticed serious irregularities/illegalities in disbursement of 23 loan cases and consequential misappropriation of Rs.91,97,44,064/-. It is further alleged that money deposited by common investors has been siphoned on the basis of incomplete loan applications unsupported by requisite security and verification of repayment

capacity of borrowers. The Directors of Bank, borrowers, employees of Credit Society in collusion with each other made wrongful gain and caused wrongful loss to the depositors of the Credit Society. The applicant came to be arrested on 20.09.2023. The applicant was Director of Adarsh Pat Sanstha till 26.06.2022. During the said period, huge disbursement of cash credit loan was made and applicant participated in meetings of the Directors while approving disbursement of such loans. On completion of investigation charge-sheet and supplementary charge-sheet have been filed. The applicant is named as accused in the charge-sheet.

3. Mr. Ghanekar, learned Advocate appearing for the applicant submits that applicant has been falsely implicated in aforesaid crime. The applicant is 7th standard passed lady and hardly understands financial affairs. However, she being Director, she has been made scapegoat. The applicant is not personally benefited by any transaction. She is behind the bar from 20.09.2023 i.e. for almost 11 months. The investigation in the matter is complete. The trial would take its own course. Further detention of the applicant would not be necessary.

4. Per contra, Mrs. Kandharkar, learned Special PP strongly opposes prayer for grant of bail. She submits that applicant was committee member of Adarsh Nagari Pat Sanstha from 2014 onwards. During the audit, she was found responsible for illegal disbursement of loan alongwith other committee members. By inviting attention of this Court to the statement of Mohan Ramdas Chavan, Manager of Adarsh Pat Sanstha, she submits that applicant was responsible for sanctioning loans in spite of illegalities. Similarly, Mr. Eknath Wagh also named the applicant as responsible for approval of illegal loans. She would point out

that applicant was present in various meetings of Director and ratified disbursement of illegal loans. She would invite attention of this Court to the observations of the Auditor Shri. D. H. Chavan in his report to contend that applicant was active Director of Credit Society and responsible for day to day business. Accordingly, she urges to reject the application.

5. Having considered submissions advanced, it is evident that applicant was Director of Adarsh Credit Society till 26.06.2022 and she was holding such post since 2014. During the said period, many illegalities in cash credit loans approved/ratified by Board of Directors can be observed. There are instances of creating bogus loan files in the name of strangers. *Prima facie*, charge-sheet indicates that huge illegalities in conduct of business was noted during audit. The applicant appears to be beneficiary of loan of Rs.20,00,000/-. However, from the scrutiny of charge-sheet it is difficult to find out individual role of applicant in commission of offence, although *prima facie* her responsibility in the capacity of Director is indispensable.

6. The applicant has been arrested on 20.09.2023. On completion of investigation, charge-sheet and supplementary charge-sheet have been filed. According to the prosecution, forensic audit is yet to be completed. Evidently, trial is not likely to commence in near future and even after considering nature of voluminous evidence, the trial is likely to take considerable time, which cannot be estimated considering the pace of investigating and prosecution machinery. The applicant is a lady. The exact role of the applicant and her complicity in commission of offence will have to be proved during the course of trial. 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."*

7. Applying aforesaid principles of law in the facts 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, Sapna w/o Sanjay Nirmal be released on bail in Crime No.454/2023 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.386/2023.

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