IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1670 OF 2024

Sunil S/o Ambadas Mankape Patil
Age: 51 Years, Occ: Business & Agri,
R/o: Plot No.31, Shivjyoti Colony,
N-6, Cidco, Ch. Sambhajinagar,
Tq; and Dist: Chh. Sambhajinagar ..Applicant

Versus

The State of Maharashtra,
Through Police Inspector CIDCO Police Station,
Chh. Sambhajinagar, Tq. & Dist. Chh. Sambhajinagar
..Respondents

...

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

...

CORAM : S. G. CHAPALGAONKAR, J.
DATED : 03rd DECEMBER 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. Mr. Tope, learned Advocate appearing for the applicant submits that applicant was not named as accused in the FIR. However, his name has been arraigned as accused no.8 in the charge-sheet. Mr. Tope would submit that applicant is neither Director nor employee of Adarsh Nagari Sahakari Co-operative Credit Society in respect of whose transactions complaint has been filed. The applicant was Manager of Adarsh Mahila Nagari Co-operative Credit Bank Limited. He has no concerned with the business of the Adarsh Nagari Sahakari Co-operative Credit Society. According to Mr. Tope since applicant is son of Ambadas Mankape i.e. President of Adarsh Nagari Sahakari Co-operative Credit Society, he has been falsely implicated in aforesaid crime. Mr. Tope would further submit that applicant has been arrested in pursuance of the aforesaid crime on 15.08.2023. He is in MCR since 31.08.2023. The investigation in the matter is complete. The charge-sheet/supplementary charge-sheet are already filed. The

trial of the case may take its own course. Further detention of the applicant is not warranted.

4. Per contra, Mrs. Kandharkar, learned Special PP strongly opposes prayers for grant of bail to the applicant. She would submit that applicant was Manager of Adarsh Mahila Nagari Co-operative Credit Bank Limited, so also he was Director of Adarsh Dairy Products Private Limited, Adarsh Builders and Developers Private Limited, Adarsh Jan Kalyan Pratisthan, Aurangabad (Sai and Sons Company). In all 24 loan files depict that applicant is a guarantor for such loans. There are statements of witnesses indicating that applicant influenced disbursal of loans and withdrawn amounts. All such loan transactions were planned for siphoning funds of Adarsh Nagari Sahakari Co-operative Credit Society. She would show certain instances, whereby applicant was direct beneficiary of the amount disbursed in pursuance of fictitious loan transactions. She would, therefore, urge that applicant cannot claim himself to be innocent. His active participation in dubious transactions cannot be ignored. She submits that in case applicant is released on bail, possibility of he being influencing process for recovery of amount under MPID Act cannot be ruled out.

5. Having considered submissions advanced, it can be gathered that applicant is not Director or employee of the Adarsh Nagari Sahakari Co-operative Credit Society in respect of whose fraud is alleged in the FIR. It can also be gathered that applicant was not named in the FIR. However, his name has been included as accused in the charge-sheet. The material on record indicates that applicant is son of main accused Ambadas Mankape. *Prima facie*, there is material to show that dubious loan transactions have been

made by Directors of the Adarsh Nagari Sahakari Co-operative Credit Society in connivance with the employees and members of Mankape family, who were holding various posts in sister institutions under the control of Mankape family. The applicant was Manager on one of such institution i.e. Adarsh Mahila Nagari Co-operative Credit Bank Limited. The loans are disbursed to various persons and sister concerns without taking care of requisite security or ensuring repayment of loans. The amount disbursed towards various loans are routed through various institutions of the Mankape family and direct and indirect benefits are taken by the accused persons. The applicant appears to be guarantor to some of the loans, which are found to be dubious. The huge amount of such loans is outstanding and there is no security for recovery of such loans.

6. Although, *prima facie*, there is sufficient material depicting involvement of applicant in commission of offence in connivance with his family members and there are documents indicating he being beneficiary of such transactions, question that requires consideration at this stage is as to whether further detention of the applicant is necessary or he deserves to be enlarged on bail.

7. Admittedly, applicant has been arrested on 15.08.2023. Since then, he was remanded to Magisterial Custody till 31.08.2023. On completion of investigation, supplementary charge-sheet is filed. The learned Special PP submitted during the course of argument that forensic audit has been directed in the aforesaid crime. The report of such audit is yet to be received. On specific query by this Court she is not in a position to assure this Court that forensic audit report would be received within short duration or near future so that matter would be ready for framing of charge.

It can be evinced from the aforesaid factors that trial in this case would not begin in near future.

8. The questions as to whether applicant is personally responsible for misappropriation and whether charges leveled against him 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 of the applicant 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 cases of ***Sangram Sadashiv Suryavanshi Vs. State of Maharashtra (Crl. A. No.4758/2024)*** wherein Supreme Court reiterated that bail is rule and shall not be refused routinely. Further, reference to 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, Sunil Ambadas Mankape 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/December-2024