IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

BAIL APPLICATION NO.1676 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.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.

3. Mr. Tope, learned Advocate appearing for the applicant submits that applicant was not named as accused in the FIR. He is neither Director nor employee of Adarsh Nagari Sahakari Co-operative Credit Society. He would further submit that accused no.1 is responsible for conduct of business of Adarsh Nagari Sahakari Co-operative Credit Society. However, since applicant is son of accused no.1, he has been falsely implicated in aforesaid crime. Mr. Tope would further submit that applicant has been arrested in pursuance of crime on 15.08.2023. He was remanded to police custody till 22.08.2023, since then, he has been remanded to Magisterial Custody. The investigation in the matter is completed. The supplementary charge-sheet is also filed. The applicant has already suffered incarceration for more than 15 months. The pre-trial detention of applicant need not be continued any more. The trial is likely to take much time.

4. Per contra, Mrs. Kandharkar, learned Special PP strongly opposes prayers for grant of bail to the applicant. She would submit that role of applicant has been surfaced during the course of investigation. She would further submit that audit report filed by Mr. T. H. Chavan for the period from 2016 to 2019 shows disbursement of loans without security, in connivance with borrowers. The applicant played vital role in getting disbursement of such loans either acting as guarantor or facilitator by

withdrawing amount sanctioned towards loans through accounts maintained with sister concerns. His active participation in dubious transactions cannot be ignored. She submits that in case applicant is released on bail, possibility, 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 is 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 occupying various positions 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 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 22.08.2023. 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 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 case of ***Sangram Sadashiv Suryavanshi Vs. State of Maharashtra (Crl. A. No.4758/2024)*** can be given 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.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 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/December-2024