IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1861 OF 2024

Devidas s/o Sakharam Adhane,
Age: 48 years, Occupation: Business,
R/o. Viramgaon Village, Tq. Khultabad,
Dist. Aurangabad ..Applicant

Versus

The State of Maharashtra ..Respondent

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Mr. A. K. Bhosle, Advocate for the Applicant.
Mrs. Komal Kandharkar, Special PP for Respondent-State.

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 13th DECEMBER 2024.
Pronounced On : 18th 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. The investigation progressed in pursuance of the aforesaid crime. The charge-sheet is filed. The applicant being Chief Manager of Credit Society came to be arrested on 11.10.2023. The plea of the applicant for grant of bail has been rejected by the Sessions Court vide order dated 04.09.2023. Hence, this application.

4. Mr. Bhosle, learned Advocate appearing for the applicant submits that applicant has been falsely implicated in aforesaid crime. No offence under MPID Act can be made out as per allegations in the charge-sheet. The alleged dubious loan transactions are during the period from 2016 to 2019. The statutory audit was conducted during the said period, but there were no serious objections. No specific complaint was made by any Auditor in this regard. The applicant resigned in the year 2021 and thereafter, objections regarding loan transactions during the period from 2019 to 2022 have been raised. The applicant's role is limited. The Board of Directors is responsible for approving or disbursing the loans. The applicant has just carried forward directions of the Chairman and Board of Directors.

5. Mr. Bhosle would further submit that applicant is behind bar for more than 14 months. The investigation in the matter is complete. The charge-sheet is filed. Many co-accused including Directors are already enlarged on bail. Therefore, on the ground of parity, he seeks release of the applicant on bail.

6. Per contra, Mrs. Kandharkar, learned Special PP strongly opposes application contending that applicant was Chief Manager

till 2021. During the audit conducted by Mr. D. H. Chauhan for the period from 2016 to 2019, many dubious loan transactions have been surfaced. The applicant played key role in disbursement of such loans. The loans are disbursed without requisite security in violation of Rules and Regulations under Co-operative Societies Act and bye-laws of Credit Society. The applicant actively and knowingly participated in disbursement of the dubious loan transactions. Further created false record as regards to the pre-deposit of loans and its fresh disbursement. The role of the applicant is not comparable with co-accused persons, who are already enlarged on bail. The applicant himself is beneficiary under some of the loan transactions. Consequently, he would urge to reject bail.

7. Having considered submissions advanced, it can be observed that applicant was Chief Manager/Managing Director of Credit Society till 2021. The test audit was carried in pursuance to the directions given by the District Deputy Registrar, Co-operative Society, Aurangabad for the period from 2016 to 2019 and after scrutiny of loan files, dubious loans transactions were surfaced. The Auditor recorded that in all 23 dubious loans were disbursed without proper loan application and security. Although there was no recovery of such loans, those were shown to be cleared and fresh loans were disbursed. The Auditor noted that amount of Rs.91,97,44,064/- has been duped. The Auditor noted manipulation in the record and fraudulent approach while giving effect to the disbursement of loans. Apparently, applicant alongwith Chairman and some of the Directors were personal beneficiaries of such dubious transactions. The fact remains that Credit Society has suffered loss in crores. The small depositors from rural area of Aurangabad District are major sufferers. The area is drought prone. The farmers and small businessmen deposited hard earned

money with Credit Society and today they are helpless waiting to receive their money back from the Credit Society. *Prima facie*, none other than the applicant and Chairman of the Credit Society is responsible for losses to depositors.

8. It is informed that forensic audit regarding loan transactions is still going on and it is expected to be completed soon. Once forensic audit is over, charge can be framed in the trial.

9. Although it is contended on behalf of the applicant that some of the Directors and employees have been already enlarged on bail, role of the applicant cannot be compared with them. While releasing those Directors or employees, this Court observed that they have limited role and mostly such transactions were dominated by Chairman and some of the employees, who were in-charge of day to day business. The applicant being Chief Manager of the Credit Society, holding key post, cannot be treated at par with the other Directors.

10. It is true that applicant is behind bar for more than one year and possibly atleast six months time would require for forensic audit and framing of charge. However, release of the applicant at this stage is likely to hamper the forensic audit as well as proceedings initiated under MPID Act. Not only that, it is likely to hamper interest of large number of depositors from areas of operation of the Credit Society. Hence, no case is made out to release applicant on bail.

11. Consequently, Bail Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE