**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1867 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.
Ms. 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.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. In pursuance to the aforesaid information, Crime No.455/2023 came to be registered with Police Station CIDCO, Aurangabad against accused persons. The applicant has been arrested on 22.11.2022 being Chief Manager of Adarsh Nagari Sahakari Pat Sanstha till 2021. The investigation progressed in the matter. The charge-sheet and supplementary charge-sheet is filed. The gist of the allegations against applicant is that the applicant was Chief Manager of the Credit Society. He in connivance with the President and Director of Credit Society and Adarsh Nagari Mahila Co-operative Bank distributed cash credit loans without security and in contraventions of bye-laws of Credit Society. All such loan transactions were dubious. Although no amounts were redeposited in pursuance of loans, record was created to show loans are cleared and fresh loans were again disbursed on the basis of false entries. Although loan accounts were NPA, loans were re-sanctioned. The applicant himself borrowed loan for purchase of plot and failed to re-deposit the

same. Consequently, applicant has actively and knowingly participated in the process of disbursement of dubious loans and misappropriated the amount.

4. Mr. Bhosle, learned Advocate appearing for the applicant vehemently submits that applicant has been falsely implicated in aforesaid crime. He was employee of the Bank and discharged his functions as per directions of Chairman and Directors of the Credit Society. According to him, applicant resigned from the post in the year 2021 and his resignation was accepted. The loans which were disbursed during the tenure of applicant have been already repaid and false implication of applicant cannot be ruled out in commission of offence. Mr. Bhosle would submit that already some of the Directors are enlarged on bail by orders of this Court. He would further submit that applicant has suffered incarceration for more that one year by this time. The investigation is completed. The charge is not yet framed. The trial would take its own course. Further detention of the applicant would not be necessary.

5. Per contra, Ms. Kandharkar, learned Special PP vehemently opposes the prayer for grant of bail. She would submit that applicant was Chief Manager of the Credit Society till 2021. The audit was carried by Mr. D. H. Chavan for the period from 2018 to 2022 noting serious objections as regards to the disbursement of loans during aforesaid period. In all 24 loan transactions were found dubious during the period when applicant was holding key post of Chief Manager. She would submit that none of such loan was having requisite security. Although there was no repayment of loans, record was created depicting such repayment and again at the end of the financial year loans worth Rs.78,44,34,689/- is shown to be disbursed. Many such loans are disbursed without even

guarantors. The amount of Rs.142,21,57,405/- was receivable on 31.03.2022 and there is no security to satisfy huge recovery. The applicant is also committee member of one of the company namely Aurangabad Jilha Krushi Audyogik Bahuddeshi Sahakari Sangh Maryadit, who is beneficiary of dubious loan. The applicant was working as Chief Manager when 22 loans out of 24 loans were disbursed and approved by Credit Society. The role of the applicant has been endorsed by witnesses cited in the charge-sheet.

6. Having considered submissions advanced and perusal of the material in the charge-sheet clinchingly depicts that applicant was Chief Manager of the Credit Society till 2021 and during his tenure as many as 24 loans were disbursed without requisite security and guarantors. Further record is created to show that aforesaid loans are cleared and at the end of financial year, fresh loans are disbursed. In fact, no recovery of the amount in pursuance of the aforesaid loans could be made. No steps were taken for recovery of disbursed amount or secure such recovery. The applicant was present in person in the meeting of Board of Directors and played key role in disbursement of all the loans. The audit of the Society was carried by informant for the period from 2018 to 2022, which *prima facie*, indicates that 23 loan transactions at the end of 31.03.2019 and one loan transaction as on 31.03.2021 were dubious in nature involving total amount of Rs.99,07,90,579/-. 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 of 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 loss of depositors.

7. 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 crime.

8. 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 Directors, 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.

9. 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.

10. Consequently, Bail Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE