IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1926 OF 2024

Ambadas S/o. Abaji Mankape Patil,
Age: 86 years, Occupation: Agri & Business,
R/o. Plot No.31, Shivjyoti Colony,
N-6, CIDCO, Aurangabad ..Applicant

Versus

The State of Maharashtra
Through Police Station CIDCO
Aurangabad ..Respondent

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Mr. V. B. Garud, 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. In pursuance of the aforesaid crime, investigation progressed and charge-sheet no.386/2023 came to be filed on 11.09.2023 in the Special Court. The applicant being Chairman of Credit Society has been arrested. The applicant moved application for grant of bail before the Sessions Court, which came to be rejected on 04.09.2023. Hence, present application.

4. Mr. Garud, learned Advocate appearing for the applicant submits that applicant has been falsely implicated in aforesaid crime. He was Chairman of the Credit Society. The unanimous decision was taken by Board of Directors for disbursement of loans. The applicant cannot be held sole responsible for the losses. The applicant had duly explained audit objections in response to the notice under Section 81(3) of the Maharashtra Co-operative Societies Act, but same has not been taken into account while lodging FIR. The allegations in the FIR depicts irregularities in disbursement of loans. The Society had taken requisite steps for recovery of loans, which is not highlighted by the Auditor. The amount of Rs.52,02,11,186/- has been returned to the depositors during the period from 24.02.2023 to 30.06.2023 and amount under FDR would also be released to the depositors. There was no fraudulent intention or misappropriation of the funds of the investors. However, from 24.02.2023 the restrictions were imposed by Reserve Bank of India for bank transactions that has hampered the smooth business. Mr. Garud would further submit that applicant has already given undertaking dated 19.08.2023 showing

his willingness to refund amount of Rs.3,20,00,000/- in four installments. The applicant is aged about 86 years. He has undergone spine surgery and requires medical follow up. This Court has already released many co-accused on bail including some of the Directors. Further detention of the applicant would not be necessary. Therefore, he seeks release of the applicant on bail.

5. Per contra, Mrs. Kandharkar, learned Special PP strongly opposes prayer for grant of bail. She would submit that applicant was Chairman of Adarsh Nagari Sahakari Credit Society. In all 108 loans have been illegally disbursed flouting all the norms and regulations of the Credit Society and small investors have been put to the loss. The applicant is main conspirator and pillar of the dubious loan transactions. He participated in meetings of the Board of Directors and was instrumental for disbursement of each and every loan. During audit, all loan transactions were found to be dubious without requisite security. There is huge manipulation of record. The loans which were unpaid were shown to be cleared and fresh loans were issued at the end of financial year. The amount under 23 dubious loans at the end of 31.03.2019 has been quantified to Rs.91,79,44,064/-. The applicant and his family members are beneficiaries of such dubious transactions. The role of the applicant cannot be compared with accused persons, who are enlarged on bail.

6. Having considered submissions advanced, it is not in dispute that applicant was Chairman of the Adarsh Nagari Shakari Credit Society. During the audit for the period from 2016 to 2019 aforesaid dubious loan transactions were surfaced. The applicant was present for each meetings as Chairman and he was responsible for disbursement of loans. It is revealed that loans were disbursed without necessary security and guarantors. None of the loans have

been repaid. The possibility of recovery of loan amount is nil. No steps were taken for recovery of loans, but manipulation was made in the record for re-allotment. The record indicates that huge amount has been siphoned by disbursing loans to various institutions, which are under the control of family of applicant. The applicant's family members are direct and indirect beneficiaries under aforesaid dubious loans.

7. During the course of argument it is submitted that forensic audit is now in the progress. Further proceeding under MPID Act is also initiated. The huge properties of the applicant and his family members are seized. Possibly some more time is required for framing of charge and securing progress in the trial. However, considering key role of the applicant and volume of the dubious transactions, release of the applicant would shake confidence of small depositors, who are actual sufferers. In such case, applicant cannot seek parity with other accused persons, who are already enlarged on bail. Even, his age would not be the ground to consider his case in the facts of this case. Apart from present crime, there are other four crimes registered against the applicant in respect of financial institutions chaired and managed by him. The poor small investors are waiting for return of amount and now some steps are being taken giving hopes to them. The release of applicant at this stage impede this process. Hence, no case is made out to grant bail.

8. Consequently, Bail Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/December-2024