IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1940 OF 2023

Rajkumar Indrachand Kothari … Applicant

VERSUS

State Of Maharashtra
And Another … Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO. 1944 OF 2023

Aloke S/o Ramlakshan Singh … Applicant

VERSUS

State Of Maharashtra
And Another … Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO. 1954 OF 2023

Chandrakant S/o Onkarrao Bholane … Applicant

VERSUS

State Of Maharashtra
And Another *… Respondents*

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Mr. Satyajit S. Bora, Advocate for the Applicant in ABA/1940/2023
Ms. Rashmi S. Kulkarni, Advocate for Applicant in ABA/1944/2023
Ms. Rashmi S. Kulkarni h/f Mr. Sanket S. Kulkarni, Advocate in ABA/1954/2023
Mr. S.B. Jadhav, APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]
DATE : 16th JANUARY, 2024

**ORDER :**

1. Applicants apprehend arrest in connection with Crime No. 354 of 2023 registered with City Chowk Police Station, Aurangabad for offence punishable under sections 406, 409, 420, 465, 467, 468, 471, 477-A, 120-B read with section 34 of the Indian Penal Code.

2. Applicants in these applications are Chartered Accountants, they have conducted audit of Ajantha Urban Co-operative Bank Ltd., Aurangabad.

3. FIR is lodged by one Suresh Panditrao Kakade, District Special Auditor, Class-I, Co-operative Societies, Aurangabad alleging that he is working on on the said post at Aurangabad Special Audit Department since 24.08.2021. His office keeps control on audits of Co-operative Societies in the district. His office hands over audit report to the higher office. By order dated 31.08.2023 issued by Additional Registrar (Administration), Co-operative Societies, Maharashtra State, Pune, he was appointed as Administrator for Ajantha Urban Co-operative Bank Ltd., Aurangabad. He took charge of the said post on 31.08.2023. The said Bank has branches at Jadhavmandi and Osmanpura, Aurangabad. The Chief General

Manager of Reserve Bank of India, by confidential letter dated 28.08.2023 addressed to the Co-operative Commissioner and Registrar of Co-operative Societies, Maharashtra State, Pune has informed for taking legal action with regard to illegalities and irregularities being conducted in Ajantha Urban Co-operative Bank Ltd., Aurangabad. It was found that, net worth and CRA with reference to audited financial condition of the Bank had a huge gap. Net worth was Rs.(-) 70.14 crores and CRA was Rs.(-) 38.30 crores. Similarly, an amount of Rs.64.60 crores was shown to have been kept in the name of 36 borrowers by showing false and fabricated fixed deposit certificates. Against such fixed deposits, 36 unsecured loans were given. This aspect has been accepted by the Bank in letter dated 23.12.2022 given to Reserve Bank of India. In view of complaint of ex-employee of the said Bank made to Reserve Bank of India on 17.04.2022, it was noticed that the Bank on 31.03.2023 has submitted to Auditor a false and fabricated certificates with reference to amount of Rs.32.81 crores kept in State Bank of India, Axis Bank and MSC Bank, Aurangabad. The Chief Executive Officer of the said Bank along with Chairman were hand in glove with Board of Directors of the said Bank and other responsible officers of the Bank and employees including Auditors made a conspiracy during the period from 01.04.2006 to 30.08.2023 and distributed loan without any mortgage or pledge in the name of 36 persons mentioned in the report. For the year 2022-23, yearly audit of Bank done by Auditors, though it was stated in the audit report that for the year 2021-22, there was inspection by Reserve Bank of India, however, he did not mention in audit report about 36 fixed deposits, which have been forged and made on the basis of false audit report.

It is further alleged that Chairman, Board of Directors, Chief Executive Officer and other employees of the Bank have shown false and fabricated entries in the Bank ledger book regarding fixed deposits of Rs.64.60 crores during the period from 01.03.2006 to 30.08.2023 and made false and fabricated certificates showing that an amount of Rs.32.81 crores was deposited with State Bank of India, Axis Bank and MSC Bank, Aurangabad. Hence, all the accused persons including Auditors have committed misappropriation of Rs.97.41 crores.

4. Heard learned advocates for applicants and learned APP. Perused the papers of investigation.

5. It is the contention of applicants that they are Chartered Accountants and Auditors and have conducted audits of the said Bank from the Bank accounts. They have pointed out discrepancies and lacunas in their respective audit reports. They claimed that they have conducted audit on the basis of documents made available by the bank authorities, and they have no role to play in the alleged forgery or fabrication of documents.

6. Learned APP has strenuously opposed the applications on instructions from the Investigating Officer, who is present in the Court. He has made available the papers of investigation.

7. It appears from the investigation papers that alleged misappropriated amount of Rs.66 crores is so far repaid by the borrowers.

8. There appears substance in the contention of applicants that they being Chartered Accountants have conducted audits of the said Bank on the basis of documents made available by the bank authorities. In the audit reports they have mentioned lacunas found during the audit. Learned APP submitted that it was the duty of Auditors to inform about lacunas to the District Deputy Registrar. Merely because the

Auditors did not inform about the lacunas to the District Deputy Registrar that by itself does not mean that applicants have actively participated in the alleged commission of offence.

9. Applicants were granted interim protection and they have attended the concerned police station and co-operated in the investigation. All the audit reports of the audits conducted by applicants have been handed over to Investigating Officer and nothing is to be recovered from them.

10. In the light of above facts, custodial interrogation and/or detention of applicants is not necessary. Applicants have no criminal antecedents and they are reputed persons in the society.

11. In that view of the matter, applications are allowed by confirming interim order dated 16.11.2023.

12. Till filing of charge-sheet, applicants shall attend the concerned police station on every Sunday from 28.01.2024 onwards, between 10.00 a.m. to 11.00 a.m. and shall co-operate in the investigation. Applicants shall not tamper prosecution evidence.

**[ NITIN B. SURYAWANSHI ]**
**JUDGE**

S.P. Rane