2024:BHC-AUG:7271

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.2076 OF 2023

1. Krushnarao Shripatrao Kadam,
Age: 67 years, Occ. Agri. & Business,

2. Pramila W/o. Krushnarao Kadam,
Age: 61 years, Occu. Agri.,

Both R/o. Deolali Pravara, Tq. Rahuri,
Dist. Ahmednagar ...Applicants
(Original Accused)

Versus

1. The State of Maharashtra
Through its Investigation Officer,
Sangamner City Police Station,
Tq. Sangamner, Dist. Ahmednagar.

2. The Superintendent of Police,
Ahmednagar. ...Respondents

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Mr. N.B. Narwade, Advocate for Applicants
Mr. N.B. Patil, Advocate for Respondents/State

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CORAM : NITIN B. SURYAWANSHI, J.

RESERVED ON : 14th MARCH, 2024
PRONOUNCED ON : 04th APRIL, 2024

ORDER :

1. Applicants apprehend arrest in C.R. No.740/2023, registered with Sangamner City Police Station, Dist. Ahmednagar, for offence punishable under Sections 420, 408, 409, 465, 467, 468, 471, 477-A r/w 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. Rajendra Fakira Nikam, District Special Auditor (Class-1), Co-operative Societies, Ahmednagar, was authorised by District Deputy Registrar, Co-operative Societies, Ahmednagar, to lodge FIR against 21 accused persons. He, therefore, lodged FIR alleging that he conducted re-audit of Dudhganga Nagari Sahakari Patasanstha Maryadit, Sangamner (for short 'the Patasanstha') for the period between 01/04/2016 to 31/03/2021 and he found that accused persons have misappropriated total amount of Rs. 80,79,41,981/-. Bhausaheb Damodar Kute, Chariman, Bhausaheb Vitthal Gunjal, Manager and Bhausaheb Santu Gaikwad, Chief Accountant, along with other accused persons have committed misappropriation in the following manner:-

Sr. No.	Details of the amount misappropriated	Amount
1	The amount of term deposit receipts have been withdrawn by making forged signatures and issuing receipts in the name of depositors, without paying to the actual depositors	3,96,425/-
2	Misappropriation by crediting the amounts of Federation dues for recovery of loan to the accounts of two saving account holders and withdrawal from these accounts.	8,15,000/-
3	Misappropriation by crediting the interest and interest payable to Account No.1035	2,72,21,968/-
4	Misappropriation by creating bogus term deposit account with Union Bank of India to the tune of Rs. 15,34,61, 875/- plus interest accrued thereon of Rs. 3,92,28,493/-	19,26,90,368/-
5	Misappropriation by not crediting Bank overdraft to the ledger.	19,60,82,097/-

6	Chairman in collusion with borrowers, for monetary interests, misused his powers and sanctioned loan in the name of Shri Kadam and his family, despite of the objections of Board of Directors and Manager in illegal and out-of-way manner and misappropriated amount	18,30,42,901/-
7	Cash credit and fixed loan in the name of Chairman and his family members were approved, sanctioned and disbursed illegally and in out-of-way manner.	12,04, 28,866/-
8	Sanctioning the loan in the name of Manager and Members of Society illegally	2,07,96,768/-
9	Illegal borrowing of the loan in the name of Chief Accountant of the Society and his family members	1,32,84,017/-
10	Personal greetings and advertisement are published in the newspaper and personal expenses have been shown in revenue expenditure of the Society and misappropriated the funds to that extent.	6,90,719/-
11	Chetan Kapate has transferred amounts from various savings and current accounts of the Society through RTGS and cheques. This misappropriation has been admitted in the Point no. 4 and 5. The loss of interest as per the prevailing rates of the Society on the amount misappropriated is of Rs. 2,85,06,225/-	2,85,06,225/-
12	Rebate given to the Chairman, Manager and the Chief Accountant with prior approval of the Registrar	1,58,67,975/-
13	Chairman of the society has charged personal expenses into the revenue expenditure and credited to own account and have misappropriated the funds as a personal asset	81,18,652/-

3. Amount of maturity of fixed deposits was not paid to the depositors and the same was withdrawn by making their bogus signatures. Accused persons in collusion have withdrawn amounts from saving accounts, current accounts and bank overdraft accounts by cheques and entries in that regard have not been shown in ledger. Misappropriation is done by showing credit entries in ledger without actually crediting the amounts. No investment in term deposit has been made in the bank, but it was shown in the balance-sheet and the said amount is misappropriated. Chairman of the Patasanstha has shown his personal expenses in revenue expenditures of the Society and charged the same to Society and misappropriated funds of the Society. Chairman for his extraneous financial considerations illegally sanctioned the loan to Mr. Kadam and his family members which was not secured, in spite of objections raised by the Board of Directors and misappropriated funds of the Society. Misappropriation is committed by sanctioning illegal bogus loans contrary to the by-laws and dispensing loan amounts in cash credit and fixed loans in the name of Chairman and his family members, Manager and Chief Accountant. Funds of the Society was misappropriated by extending rebates to the Chairman, Manager and Chief Accountant in illegal manner and without prior approval of Registrar of the Societies. To conceal the illegal transactions and entries, illegal accounting was done from time to time. Persons involved in misappropriation of Society’s funds are:

1) Bhausaheb Damodar Kute, 2) Bhausaheb Vitthal Gunjal, 3) Bhausaheb Santu Gaikwad, 4) Chetan Nagraj Kapate alis Sudarshan Baba, 5) Dadasaheb Bhausaheb Kute, 6) Sandip Bhausaheb Kute, 7) Amol Bhausaheb Kute, 8) Vimal Bhausaheb Kute, 9) Shakuntala Bhausaheb Kute, 10) Sonali Dadasaheb Kute, 11) Krushnrao Shripatarao Kadam, 12) Pramila Krushnarao Kadam, 13) Ajit Krushnrao Kadam, 14) Sujit Krushnrao Kadam, 15) Sandip Dagadu Jare, 16) Lahanu Ganpat Kute, 17) Uttam Shankar Landge 18) Ulhas Raosaheb Thorat, 19) Somnath Karbhari Satpute, 20) Arun K. Burud and 21) Amol Prakash Kshirsagar

4. Heard learned advocate for applicants and learned APP for respondents/State. Perused the investigation papers.

5. Applicants claim that, in fact, no loan amount was disbursed to them and they have filed private complaint against Patasanstha, its Chairman, Manager and Manager's wife, which is numbered as R.C.C. No.309/2022. In the complaint it is specifically mentioned that, though no loan amounts were actually disbursed to them, security documents were obtained from applicants. Trial Court has directed to proceed the matter under Section 200 of Cr.P.C. and the same is pending. Applicants claim that valuation of the property of applicants, which is mortgaged towards security of loan is more than the loan amount outstanding against them. Recovery certificate is already issued on 05/09/2022 against applicants, at the

instance of Patasanstha and the recovery is going on. It is submitted that in present case charge-sheet is already filed and all the documents are seized. Therefore, custodial interrogation of applicants is not necessary.

6. Learned APP, on the other hand, vehemently opposed the application submitting that applicants are close relatives of Chairman and loans were obtained and availed by applicants. Without any purpose said loans are given to applicants. Applicant No.2 Pramila is not doing any business, still business loan of Rs.75,00,000/- was sanctioned and disbursed to her. After the loan was sanctioned and deposited in the account of applicants, the same was withdrawn on the same day. As on tody amount of Rs.2,19,00,000/- and Rs.2,18,00,000/- is outstanding against applicants. Their complicity is revealed during the investigation and therefore, they are not entitled for protection.

7. Perusal of investigation papers show that both the applicants are relatives of Chairman and in collusion with Chairman they have obtained loans on extraneous financial considerations and have misappropriated said amount. On 15/12/2015, applicant No.1 was sanctioned cash credit of Rs.75,00,000/- and fixed loan of Rs.75,00,000/-. Both the amounts were withdrawn in cash, on the same day. As on today, total outstanding amount against applicant No.1 is Rs.4,07,07,108/-.

On 19/12/2015 applicant No.2 was sanctioned cash loan of Rs.75,00,000/- and fixed loan of Rs.75,00,000/-. Both these amounts were withdrawn on the same day and as on today Rs.4,06,37,933/- are outstanding as against her. Both applicants have signed promissory notes of cash credit loan of Rs.75,00,000/- and fixed loan of Rs.75,00,000/-.

8. Account extracts of applicant No.1 show that amount of Rs.75,00,000/- was credited in applicant No.1's account on 15/12/2015 and Rs.75,00,000/- was also credited on the same day. Applicant No.1 has withdrawn Rs.75,00,000/- on the same day i.e. on 15/12/2015 and Rs.75,00,000/- was withdrawn on 05/01/2016. Similar is the case of applicant No.2, as Rs.75,00,000/- cash credit and fixed loan of Rs.75,00,000/- are credited to her account on 19/12/2015, which was immediately withdrawn.

9. It is transpired in the investigation that accused persons have conspired together and have systematically siphoned off huge amount deposited by poor depositors, who were lured to keep deposits with the Patasanstha on the promise of giving higher interest rates. Accused persons have misappropriated staggering amount of Rs.80,79,41,981/-. Accused persons have cheated the poor depositors by preparing fabricated records. Applicants have failed to bring on record any document in support of their contention that loans availed by them are secured by mortgaging

their property, valuation of which is more than the loan outstanding in their name. Connivance of applicants in present crime and their active involvement is clear from the fact that they have already filed private complaint against Chairman and others claiming that they have not received any loan amount.

10. Charge-sheet is filed against applicants under Section 299 of Cr.P.C. Provisions of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, are also made applicable. The offence is registered on 19/08/2023 and since then applicants are absconding. Considering the serious accusations and complicity of applicants in present crime and the fact that huge funds of poor depositors are misappropriated and siphoned off by accused persons, for effective investigation, custodial interrogation of applicants is necessary. Applicants therefore, are not entitled for discretionary relief of anticipatory bail. Hence, the application is rejected.

(NITIN B. SURYAWANSHI, J.)