

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 304 OF 2024

Vishwas Gulabrao Tapkir ...Applicant

Vs.

State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 95 OF 2024

Devidas Sopan Bhosale and Others ...Applicants

Vs.

State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 224 OF 2024

Mr. Mukesh Gupta, for Applicant in ABA/304/2024.

Mr. Tapan thatte with Mr. Arvind Aswani, for Applicant in ABA/95/2024.

Mr. Dheeraj Panchang with Mr. A. Pange i/b Mr. Vivek Kyadal, for Intervener/Applicant- in IA No. 224 of 2024.

Mrs. G. P. Mulekar, APP for State- Respondent No. 1.

Mr. A. D. Jadhav, HC, Dighi Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 22nd FEBRUARY, 2024.

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The order corrected as per order dated 12th March, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) These applications are preferred for pre-arrest bail in connection with CR No. 521 of 2023, registered with Dighi Police Station, Pimpri- Chinchwad, for the offences punishable under Sections 406, 420, 408 and 409 read with Section 34 of the Indian Penal Code, 1860.
- 3) When the ABA No. 95 of 2024 was listed before this Court on 18th January, 2024, this Court was persuaded to grant ad-interim relief observing, *inter alia*, as under:-

“...4. Learned Counsel for the Applicants invited the attention of the Court to the audit report, which according to him, squarely fixes responsibility on the co-accused – employees.

5. Learned APP and the learned Counsel for the Depositors - Interveners, resisted the application for pre-arrest bail. It was submitted that the employees could not have committed fraud without the knowledge and connivance of the office bearers of the society.

6. Prima facie, the audit report indicts co-accused-employees with specific role in the alleged fraud. The applicants are professed to be held vicariously liable for the alleged dereliction of duties and inaction. Prima facie, it appears that the applicants are not the beneficiaries of the alleged fraud...”

- 4) The learned Counsel for the applicants submitted that pursuant to the order granting ad-interim relief, the applicants

had appeared before the Investigating Officer and co-operated with the investigation.

5) The learned APP, on instructions of the Investigating Officer, submitted that the applicants did appear in terms of the aforesaid order and have also produced all the documents which the Investigating Officer had called upon the applicants to produce. The investigating officer does not require further custodial interrogation of the applicants.

6) In view of the aforesaid statement and the fact that in the audit report, which is the basis of the FIR, specific role of defalcation has been attributed to the co-accused -the employees of the co-operative society, and that the applicants have co-operated with the investigation and the Investigating Officer does not require the custody of the applicants, I am inclined to make the orders of interim bail absolute.

7) Hence, the following order.

ORDER

I) The orders of Interim Bail dated 18th January, 2024 in ABA No. 95 of 2024 and 6th February, 2024 in ABA No.

304 of 2024 are made absolute on the terms and conditions incorporated therein.

II) The applicants shall appear before the Investigating as and when directed by the Investigating Officer

III) The applicants shall regularly attend the proceedings before the jurisdictional Court.

IV) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for pre-arrest bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicants and the trial court shall not be influenced by any of the observations made hereinabove.

V) In view of the disposal of the Bail Applications, the Interim Application also stands disposed.

[N. J. JAMADAR, J.]