

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

ANTICIPATORY BAIL APPLICATION NO.3682 OF 2023

Pradeep Nilwarna

...Applicant

Digitally
signed by
NIKITA
KAILAS
DARADE
Date:
2024.01.08
15:09:53
+0530

versus

The State of Maharashtra & Anr.

.... Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.3629 OF 2023**

1) Milind K. Raul

2) Vishwesh R. Chavhan

3) S.S. Deshpande

4) Avinash Madpe

5) Vasant Dongre @ Vilas Dongre

6) Ulhas P. Tembe

...Applicants

versus

The State of Maharashtra

.

... Respondent

**IN
INTERIM APPLICATION NO.18 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.3629 OF 2023**

Cdr Sadanand Manekar (Retd)

...Intervener

In the matter between

Milind K. Raul and Ors.

...Applicants

versus

The State of Maharashtra

.... Respondent

Mr. Tushar V. Dahibawkar i/b Pankaj V. Dahibawkar
for the Applicant in ABA/3682/2023.

Mr. Rohin R. Chauhan i/b Aadesh Konde Deshmukh
for the Applicants in ABA/3629/2023.

Mr. Sundeep Singh for the Intervenor in IA/18/2024.

Ms. Sharmila S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 5th JANUARY 2024

P.C. :

1. Both the applications are decided by this common order, because they arise out of the same subject matter.
2. The Applicants are apprehending arrest in connection with C.R. No.303 of 2023 dated 7th December 2023 registered at Navghar Police Station under Sections 406, 409, 420 read with 34 of IPC and under Sections 146 and 147 of the Maharashtra Cooperative Societies Act, 1960.
3. Heard, Mr. Tushar Dahibawkar, learned counsel for the Applicant in ABA No.3682 of 2023, Mr. Rohin Chauhan learned counsel for the Applicant in ABA No.3629 of 2023, Mr. Sundeep

Singh for the Intervener in IA No.18 of 2024, and Ms. Sharmila Kaushik, learned APP for the State.

4. The First Information Report is lodged by Anand Mhole, who was a statutory Auditor. The District Deputy Registrar, Cooperative Societies Eastern Suburbs, Mumbai had directed him to conduct statutory audit for the period of 2016-2017 and 2017- 2018. But since the audit for 2016-2017 was already conducted, he conducted audit for 2017-2018. The Society in question was Sachin Cooperative Housing Society Ltd., Mithagar Road, Mulund East, Mumbai. During the period 1st April 2017 to 22 October 2017, the Applicant Milind Raul was the Secretary. The Applicant Vishwesh Chavhan was the Chairman. The Applicant S.S. Deshpande was the Treasurer and the Applicants Ulhas Tembe, Avinash Madpe, Vasant @ Vilas Dongre, and Pradeep Nilwarn were the Committee Members. It is mentioned in the FIR that between 6th April 2017 to 12th November 2017 around Rs.5,62,000/- were withdrawn from the Society's funds. Out of that amount, Rs.4,16,522/- were spent for different works related to Society. Around Rs.32,906/- were

spent through 17 vouchers. Those vouchers were missing. Therefore, there was no link as to where that amount was spent. The new Committee Secretary Manekar could not furnish information in that behalf. Out of aforesaid amount of Rs.5,62,000/-, Rs.1,66,850/- were paid to one Rajanna. The payments were made frequently. It was his case that for an amount of Rs.1,500/- and above, the amount can be withdrawn only through cheque. But instead of that, such amount was withdrawn from time to time by way of cash. On this basis, the FIR is lodged.

5. According to learned counsel for the informant, all these Applicants, being the responsible members of the Committee, cheated the other members of the Society.
6. Learned counsel for the Applicants submitted that there was no misappropriation of funds. The amount which was withdrawn was utilized for the purpose of the Society itself. Most of the amount was utilized for repairs and other maintenance of the buildings. The buildings are more than fifty years old and, therefore, frequent maintenance is required. Said

Rajanna is a contractor who was supplying labourers and he was paid the amount. The Society buildings required regular maintenance and, therefore, the amounts were paid to him frequently. He further submitted that the Applicants are respected members of the Society. All of them are senior citizens and they have spent their valuable time for the benefit of the Society. Thus the prosecution against them is unfair. The documents are already in the custody of the Investigating Officer. They have cooperated with the investigation. There is nothing to be recovered from them. Their custodial interrogation is not necessary.

7. Learned counsel for the intervener Sadanand Manekar opposed this application. He submitted that the offence is clearly made out in the FIR itself. The audit report mentions 39 points of irregularities and gives details as to how the amount of Rs.5,62,000/- was misutilized by the applicants. The audit report mentions demand from Income Tax Department, the payment of GST, cash withdrawal without supporting voucher, payment to Rajanna, and interest and penalty for not filing

Income Tax return for two years etc.. All these have caused financial loss to the Society for which the Applicants are responsible.

8. Learned APP, on instructions, submitted that the Applicants have attended the Investigating Agency office and have cooperated with the investigation. The documents are already in possession of the Investigating Agency.

9. I have considered these submissions. The FIR itself mentions that the amount of alleged misappropriation is Rs.5,62,000/-. The FIR further mentions that out of that amount, Rs.4,16,522/- were spent for various works related to the Society itself. Thus, the substantial amount was spent for the Society's purpose. Some vouchers were misplaced and, therefore, the amount of Rs.32,906/- could not be accounted for, but even in that behalf, there are no allegations that the amount was misappropriated by any of these Applicants. The Applicants are senior citizens, and as rightly submitted by their counsel, they have devoted their personal time in looking after the affairs of the Society. They have cooperated with the investigation. The

documents are already in the custody of Police. Custodial interrogation of the Applicants is not necessary. In this view of the matter, all of them can be protected by way of anticipatory bail.

10. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.303 of 2023, registered with Navghar Police Station, the Applicants are directed to be released on bail on their executing PR bond in the sum of Rs.30,000/- (Rs.Thirty Thousand Only) each with one or two sureties each in the like amount.
- (ii) The Anticipatory Bail Applications along with the Interim Application stand disposed of.

(SARANG V. KOTWAL, J.)