IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1077 OF 2024

Rohit Bhivram Labhade … Applicant
**Vs.**
State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.1823 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.1077 OF 2024

Pradip Ramchandra Chorghe … Applicant-Intervener
**Vs.**
State of Maharashtra and another … Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.1079 OF 2024

Shripad Mahadeo Kulkarni … Applicant
**Vs.**
State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.1822 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.1079 OF 2024

Pradip Ramchandra Chorghe … Applicant-Intervener
**Vs.**
State of Maharashtra and another … Respondents

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Mr. Sandesh Patil i/b. Mr. Prithviraj S. Gole for Applicants in both the ABAs.

Mr. Balraj B. Kulkarni, APP for Respondent-State.

Mrs. Aruna Pai for Applicant in IAs.

Mr. Barde, P.I., EOW, Pune.

**CORAM : MANISH PITALE, J.**
**DATE : JUNE 24, 2024**

**P.C.** :

. Heard Mr. Patil, learned counsel appearing for the applicants, Mr.Kulkarni, learned APP appearing for the respondent - State and Mrs.Pai, learned counsel appearing for the informant.

2. These two anticipatory bail applications are filed by accused Nos.5 and 7 as they apprehend arrest in connection with FIR No.0050 of 2024 dated 05.03.2024 registered at Bhor Police Station, District - Pune Rural for offences under Sections 120-B, 409, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860 (IPC) and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3. The statement of the informant leading to registration of the FIR is recorded in the backdrop of an order passed by the jurisdictional magistrate under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.), directing registration of FIR and investigation into the grievance raised by the informant.

4. As per the said statement, in the year 2016-17, the accused Nos.1 and 2 concerned with Yashwant Co-operative Bank Limited and Chikhli Urban Co-operative Bank Limited respectively allured the informant, being a director of a company called ‘Rajmudra Agro Developers Private Limited’. It is alleged that according to accused Nos.1 and 2, the accused Nos.3 and 4 had immense experience in developing tourist resorts and if the company of the informant was interested, loan could be made available for developing such tourist resorts in Maharashtra, subject to accused Nos.3 and 4 being inducted as directors in the said company of the informant. It is also alleged that considering the handsome return of 50% to 70% promised by accused Nos.1 to 4, the informant was cheated into inducting accused Nos.3 and 4 as directors in his company and it was agreed that an amount of Rs.8 crores would be disbursed as a loan to the said company of the informant in which accused Nos.3 and 4 were inducted as directors.

5. It is further the grievance of the informant that after he fell victim to the allurements given by the said accused persons, as a matter of fact, amount of loan was not being disbursed as expected and upon the matter being pursued, only an amount of Rs.1.45 crores was found to have been disbursed. It is alleged that the balance amount was siphoned off and it is at this stage that for the first time, the names of the applicants featured as being some of the persons in whose accounts the amount found its way. In fact, as per the statement of the informant, specific amounts found their way to the bank accounts of the applicants before this Court.

6. It is on the basis of such allegations that the aforementioned FIR has been registered against all the accused persons, including the applicants before this Court.

7. The learned counsel appearing for the applicants submits that the allegations made in the statement leading to registration of the FIR would show that the ingredients of the offences registered against the accused persons could, at the most, be relatable to accused Nos.1 to 4 as there is not even an allegation against the applicants before this Court of having allured the informant into agreeing for starting a venture for tourist resorts and inducting accused Nos.3 and 4 as directors in his company, in return for the huge amount of loan that would be disbursed in favour of the said company of the informant. It is further brought to the notice of this Court that the informant has suppressed the fact that proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) were initiated against the said company of the informant due to the default in repayment of installments, which ultimately resulted in the mortgaged property being attached, possession being taken, it being sold in terms of the provisions of the SARFAESI Act and even sale certificate being issued. All these events happened

between the years 2018 to 2022 and yet there is no reference to the same on the part of the informant.

8. It is submitted that in the reply filed along with the affidavit of the respondent No.1-State, an audit report of the Registrar of Co-operative Societies is placed on record, wherein reference to the applicants before this Court is made in the context of disbursement of certain amounts in March, 2017 and that these amounts, *inter alia*, were credited to the accounts of the applicants before this Court. It is submitted that such disbursal of amounts in March, 2017 was clearly within the knowledge of the informant as one of the directors of the said company and therefore, the filing of the application under Section 156(3) of the Cr.P.C. in the year 2024, leading to registration of the said FIR, can be said to be belated. It is submitted that in any case, other than the aforesaid alleged material against the applicants, there is not even an allegation which could *prima facie* indicate ingredients of the offences registered in the present case. On this basis, it is submitted that since the applicants are ready to co-operate with the investigation and it necessarily involves documentary material, this Court may consider granting protection to the applicants.

9. On the other hand, Mr. Kulkarni, learned APP submits that the allegations made by the informant, leading to registration of the FIR, are elaborate and quite clear. Specific amounts that found way to the bank accounts of the applicants before this Court have been stated on the basis of the aforementioned report of the Registrar of Co-operative Societies dated 27.02.2023. It is submitted that custodial interrogation of the applicants is necessary to find out the *modus operandi* adopted by all the accused persons to dupe the informant and his company into suffering huge financial loss at the hands of the said accused persons. It is submitted that the Sessions Court correctly took into consideration the

aforesaid report of the Registrar of Co-operative Societies and held against the applicants. None of the accused persons have been apprehended and in that light, this Court may not show any indulgence to the applicants.

10. The learned counsel appearing for the informant vehemently submitted that the informant, being a person having served in the Navy and joined the company of his brother-in-law, did not expect the accused persons to have duped him in such a manner. In fact, it is submitted that the informant was running from pillar to post with his grievance and since the police refused to register the FIR, he was even constrained to approach the Human Rights Commission. It is submitted that after the aforementioned report of the Registrar of Co-operative Societies became available, the informant was constrained to file application under Section 156(3) of the Cr.P.C. The concerned magistrate passed the order and eventually, the FIR could be registered on 05.03.2024 in the instant case. It is submitted that therefore, there cannot be any allegation of delay on the part of the informant in approaching the concerned authority with his grievance. It is further submitted that the aforesaid report of the Registrar of Co-operative Societies brought to the fore, the involvement of the applicants before this Court and as to the manner in which they were part of the conspiracy along with the accused Nos.1 to 4 to dupe the company of the applicant, thereby causing huge financial losses. It is submitted that the allegation of suppression of facts is clearly misplaced, for the reason that the loan amounts were directly siphoned off by the accused persons and since part of the amount found its way to the bank accounts of the applicants, their involvement is clearly evident from the material available on record. It is submitted that the investigation has to be completed to further bring to the light the *modus operandi* adopted by the accused persons. Since all of them are absconding, this Court may not show any indulgence to the applicants.

11. This Court has considered the rival submissions in the light of the material placed on record. The statement leading to registration of the FIR was read in detail by the learned APP to assist this Court. There is no doubt about the fact that the applicants have been named and it is alleged that specific amounts were diverted to the bank accounts of the applicants. When the loan amount was supposed to be disbursed to the company of the informant, it was illegally diverted to various bank accounts.

12. But, a reading of the aforesaid statement shows that even according to the informant, it was accused Nos.1 and 2, who floated the proposal before the informant for venturing into tourist resorts in the State of Maharashtra, which was said to be a profit making venture. The allegation is against the said two accused persons, who were concerned with the said co-operative banks and as to the manner in which they introduced accused Nos.3 and 4 as persons having experience in the field of developing tourist resorts. The allegation is again against accused Nos.1 and 2 as to how they lured the informant into inducting accused Nos.3 and 4 as directors in his company, which was the basis on which the loan amount of Rs.8 crores was disbursed in favour of the company. The informant has further alleged that the entire loan amount was not disbursed and only about Rs.1.45 crores was disbursed as loan, with the balance amount being directly siphoned off by the accused persons. It is at this stage when the informant has narrated about the balance amount having been siphoned off, that the names of the applicants, with certain figures, featured in the aforesaid statement.

13. The offences registered against the accused persons include offences under Section 409 (criminal breach of trust by public servant, or by banker, merchant or agent), Section 420 (cheating and dishonestly inducing delivery of property), Section 467 (forgery of valuable security,

will, etc.), Section 468 (forgery for purpose of cheating) and Section 471 (using as genuine a forged document or electronic record) of the IPC.

14. This Court is of the opinion that *prima facie*, at this stage, the ingredients of the aforesaid offences may well be present as against accused Nos.1 to 4, in the light of the specific allegations made in the statement leading to registration of the FIR. The specific role and the allegations against the applicants pertain to certain amounts allegedly illegally disbursed into the accounts of the applicants. The report of the Registrar of Co-operative Societies dated 27.02.2023 records that such amounts were disbursed in March, 2017. It is significant to note that the informant himself is the director of the company and he had agreed to induct accused Nos.3 and 4 as directors in his own company on the allurement allegedly given by accused Nos.1 and 2. Being one of the directors of the company, *prima facie*, it is difficult to understand how the informant was totally unaware of such events upto the year 2023 when the report of the Registrar of Co-operative Societies came to light. In any case, the ingredients of the aforementioned offences require specific allegation against the applicants before this Court of having lured the informant into inducting accused Nos.3 and 4 as directors, agreeing for going into the venture of tourist resorts and being duped into applying for and obtaining loan of Rs.8 crores for the company. There are no such allegations against the applicants before this Court as regards such allurement or cheating.

15. In view of the above, this Court is of the opinion that so long as the applicants are ready to co-operate with the investigation, and they produce all the documents available with them before the investigating officer, they have indeed made out a case for allowing the present application.

16. In view of the above, the anticipatory bail applications are

allowed in the following terms:-

A. In the event the applicants are arrested in connection with FIR No.0050 of 2024 dated 05.03.2024 registered at Bhor Police Station, District - Pune Rural, they shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] each and one or two sureties in the like amount to the satisfaction of the trial Court;

B. The applicants shall remain present before the investigating officer on 27.06.2024 and 28.06.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. They shall co-operate with the investigation and produce the documents demanded by the investigating officer;

C. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

17. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

18. It is specifically made clear that the present applications are being allowed in the light of the material available on record and the tenor of the allegations made by the informant against the two applicants. The fact that these two applications have been allowed would obviously not inure to the benefit of the co-accused persons, who will have to make out their own case independently, in the event they approach the Court.

19. The anticipatory bail applications as also the interim applications are disposed of accordingly.

**(MANISH PITALE, J.)**

***Minal Parab***