

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1734 OF 2024**

1. Supriya Vilas Thorve and		
2. Neelam Avinash Thorve	...	Applicants
vs.		
The State of Maharashtra	...	Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1735 OF 2024**

1. Vilas Vasudev Thorve,		
2. Lakshaman Narayan Thange,		
3. Harishchandra Tatu Thombare, and		
4. Uday Shantaram Limbkar	...	Applicants
vs.		
The State of Maharashtra	...	Respondent

Mr. Hrishikesh Mundargi a/w. Mr. Meghdeep Oak and Ms. Paavani Chaddha for applicants in both the applications.

Ms. Rutuja A. Ambekar, APP for respondent-State in ABA/1734/2024.

Mr. Kiran Chandrakant Shinde, APP for respondent-State in ABA/1735/2024.

P. A. Powar, Police Inspector, E.O.W., Raigad.

CORAM : MANISH PITALE, J.

DATE : 09th JULY, 2024

P.C. :

. Heard learned counsel for the applicants and the learned APPs for respondent-State in both the applications.

2. In these applications, the six applicants before this Court are the ex-chairman, vice-chairperson and directors of a Patsanstha. They, alongwith

others, have been arraigned as accused persons and the applicants are apprehending arrest in connection with FIR No.0280 of 2023 dated 01.11.2023 registered at Police Station Karjat, District Raigad for offences under Sections 420 and 409 read with Section 34 of the Indian Penal Code, 1860; as also Section 81(5) of the Co-operative Societies Act, 1961. This Court is informed that subsequently, offences under the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, have been added.

3. On the last occasion, this Court had granted time to the learned APP to take instructions on a specific submission made on behalf of the applicants, highlighting the fact that both the applicants in Anticipatory Bail Application No.1734 of 2024 are women aged about 57 years and applicant No.1 in Anticipatory Bail Application No.1735 of 2024 is suffering from Parkinson's disease.

4. Today, when the application is called out for hearing, the learned APP has tendered a medical certificate issued by the doctor treating the applicant No.1 in Anticipatory Bail Application No.1735 of 2024, certifying that the said applicant is indeed under treatment for Parkinson's disease and depression. It is to be noted that the said applicant is about 67 years old. This Court has also taken note of the fact that applicant Nos.2 to 4 in the said application are also senior citizens aged about 77, 78 and 66 years respectively.

5. The learned counsel for the applicants in both these applications submitted that the FIR has been registered by invoking Section 81(5) of the Co-operative Societies Act, 1961, by the auditor on the basis of the audit

report concerning the Patsanstha. As per the audit report, the Patsanstha has not properly documented its activities and the paperwork has not been completed in the expected manner, indicating that an amount of ₹ 1.94 crores has been misappropriated. It is the case of the applicants that, at worst, the material on record, including the audit report and the information given by the auditor as the first informant, may show the improper manner in which the paperwork and the affairs of the Patsanstha were managed, but there is no grievance by any of the depositors that their amounts have been siphoned off or diverted by the applicants or other accused persons. It is submitted on behalf of the applicants that they are ready to co-operate with the investigation and since the explanation on their part would involve documentary material, which they are ready to produce, this Court may consider granting anticipatory bail, particularly because the applicants are senior citizens and women.

6. The learned APP submitted that the audit report as well as the statement of the informant clearly indicate that the applicants and other accused persons have not been able to account for the large sums of money, thereby indicating misappropriation of huge amount. It is submitted that although this Court may consider the medical condition and the age of the applicants, but unless they co-operate with the investigation, it would be difficult for the Investigating Officer to reach findings as regards the mismanagement of the affairs of the Patsanstha.

7. Having perused the material on record, this Court finds that the statement of the informant i.e. the auditor, which has led to registration of FIR, is entirely based on the audit report. The statutory audit of the Patsanstha indicates that the affairs of the Patsanstha were perhaps not

managed properly and absence of proper papers has led to some gaps in the explanation for certain sums of money. In fact, one of the heads appears to be amount spent by the Patsanstha on stationery. The manner in which the affairs of the Patsanstha were managed, is evident from the lack of paperwork and this is reflected in the audit report itself. At the same time, at this stage at least, it does not appear that any of the depositors have come forward to raise grievance against the applicants, stating that they have suffered losses or that their specific amounts have been siphoned off or diverted by the applicants.

8. It is also relevant that the two applicants in Anticipatory Bail Application No.1734 of 2024 are women aged about 57 years and even under the Criminal Procedure Code, 1973 (Cr.P.C.), particularly proviso to Section 437(1) thereof, women are to be treated with consideration while hearing such applications for bail. The learned APP has taken instructions as regards the medical condition of applicant No.1 in Anticipatory Bail Application No.1735 of 2024, which shows that he is being treated for Parkinson's disease. Applicant No.2 is aged about 77 years, applicant No.3 is aged about 78 years and applicant No.4 is a doctor aged about 66 years, concerning the aforesaid application.

9. In view of the fact that the applicants before this Court are all senior citizens and women, with one of the applicant suffering from Parkinson's disease, this Court is of the opinion that so long as the applicants co-operate with the investigation, the present applications can be allowed by imposing appropriate conditions.

10. In view of the above, the application is allowed in the following terms:
- (i) In the event the applicants are arrested in connection with FIR No.0280 of 2023 dated 01.11.2023 registered at Police Station Karjat, District Raigad, they shall be released on bail on furnishing PR Bond of ₹ 50,000/- (Rupees Fifty Thousand only) each with one or two sureties in the like amount to the satisfaction of the trial Court;
 - (ii) the applicants shall remain present before the Investigating Officer on 11.07.2024 and 12.07.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon them to remain present;
 - (iii) the applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case;
 - (iv) The applicants shall co-operate with the investigation, including producing all the necessary documents, and also in the proceedings before the trial court.
11. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.
12. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.
13. The applications stand disposed of.

(MANISH PITALE, J)