IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1841 OF 2024

Avinash Prakash Bomdyal and others	…	Applicants
vs.		
The State of Maharashtra	…	Respondent

Mr. A. P. Mundargi, Senior Advocate, a/w. Ms. Gauri Velankar, Mr. Shantanu Gurav, Ms. Shruti Kothavade and Mr. Saarth Chordia, i/b. Sarang S. Aradhye for applicant.

Mr. Prasanna P. Malshe, APP for respondent-State.

CORAM : MANISH PITALE, J.
DATE : 29th JULY, 2024

P.C. :

. Heard learned senior counsel for the applicants and the learned APP for the respondent-State.

2. The applicants, who are the office bearers and members of the managing committee of a co-operative federation of weavers, have approached this Court seeking anticipatory bail, as they apprehend arrest in connection with FIR No.0088 of 2024 dated 05.03.2024 registered at Police Station Jail Road, District Solapur City, for offences under Sections 409 and 420 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The FIR has been registered at the behest of auditor of the said federation on the allegation that there has been misappropriation of huge amounts of money by the applicants as well as the members of the erstwhile managing committee of the said federation.

4. The allegations are under three broad heads. Firstly, the applicants and other accused persons were actively involved in disposing of the property belonging to the federation for an amount far less than the prevailing market rate. Secondly, the applicants disbursed specific amount to the incharge manager of the federation and that such amount was not payable to him. It was allegedly given for the assistance provided by him for the aforesaid act of disposing of property of the federation on the part of the applicants and other accused persons, for an amount far less than the prevailing market rate. Thirdly, it is alleged against the applicants that they were instrumental in parting with an amount of ₹ 5 lakhs paid to a third party, ostensibly for "*murum*" used for closing down a well. This was an unaccounted illegal transfer to the third person. It is alleged that in the process, the applicants and other accused persons not only caused loss to the federation, but they individually gained financially at the expense of the federation and the members of the federation. Further allegation is made to the effect that the amounts that were realized from such undervalued and illegal disposal of the property of the federation, were distributed to the members of the federation, in violation of Section 64 of the Maharashtra Co-operative Societies Act, 1960 (MCS Act).

5. The learned senior counsel appearing for the applicants submitted that the allegations made against the applicants pertain to a situation being faced by the federation from the year 2010 onwards. It is submitted that a major chunk of the property of the federation was caught in a legal wrangle, due to the fact that after the bids were called from interested buyers in pursuance of permission granted by the competent authority for sale of such property, a dispute arose between the highest bidder and the second highest bidder. The

dispute remained pending and eventually, the suit filed by the highest bidder, wherein the federation was one of the defendants and the second highest bidder was also second defendant, ended up in compromise. In pursuance of the compromise, the aforesaid major chunk of land was sold to a nominee of the highest bidder through what is said to be a private treaty. It is submitted that the office of the sub-registrar confirmed the fact that no loss was caused to the State Exchequer, taking into account the amount of consideration exchanged, in pursuance of the transaction executed on behalf of the federation, in pursuance of the said compromise.

6. It is submitted that the valuation on which reliance is placed, is merely of a Government approved valuer and not Government valuation, as opined by the Sessions Court, while rejecting the anticipatory bail application of the applicants.

7. It is further submitted that the applicants, as office bearers of the managing committee of the federation, came into picture only from the year 2015 onwards and therefore, they cannot be held responsible for the alleged misdeeds prior to the year 2015. It is further submitted that all the steps taken by applicants were in the best interest of the federation and it cannot be alleged that there was any criminality involved in the present case.

8. On the other hand, the learned APP has vehemently opposed the prayer made in the present application. He submitted that applicant No.1 being the chairman of the co-operative federation and the other applicants being the members of its managing committee, had indulged in various actions, whereby they personally illegally gained financially at the expense of the federation and the members of the federation. It is submitted that the

auditor being the first informant, took necessary steps as per the mandate of the provisions of MCS Act. The auditor found large scale misappropriation of amounts in which not only the federation faced financial loss, but amounts were illegally transferred from the account of federation to the applicants. Investigation is still underway and therefore, this Court may not show any indulgence to the applicants.

9. This Court has considered the rival submissions in the light of the material brought to the notice of this Court by the learned APP. This Court has perused the investigation papers, including statement of bank account of the federation. Entries in the said statement show that on various dates, amounts were transferred from the account of the federation into the individual accounts of the applicants before this Court. The quantum of these amounts vary, but on an overall appreciation of the said material, *prima facie* it comes to light that sizable amounts found their way from the account of federation to the individual bank accounts of the applicants. Sizable amounts also went to the account of the co-accused person, who was the office bearer of the managing committee of the federation, prior to the year 2015. It is significant that such amounts were transferred after the aforesaid transaction dated 31.03.2021 was given effect on behalf of the federation.

10. In the face of such material, notwithstanding the fact that there is indeed material to show that initially, permissions were taken from the competent authority for disposing of the properties of the federation, the investigation papers at this stage do indicate *prima facie* involvement of the applicants in misappropriation of amounts and that the explanation sought to be given at this stage, cannot come to the aid of the applicants.

11. It is significant to note that in the present case, offence under Section 409 of the IPC is also registered against the applicants, which carries maximum sentence of life imprisonment.

12. Considering the serious allegations and in the light of the investigation papers brought to the notice of this Court, no case is made out for granting anticipatory bail.

13. Accordingly, the application is rejected.

(MANISH PITALE, J)

Priva Kambli