IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2108 OF 2024

Mukund Mahadev Gijre … Applicant
Vs.
State of Maharashtra … Respondent

Mr. Sushant Prabhune for Applicant.
Ms. Rutuja A. Ambekar (through VC), APP for Respondent-State.
Mr. Ashok Raut, PSI, Baramati City Police Station.

CORAM : MANISH PITALE, J.
DATE : AUGUST 20, 2024

P.C. :

. Heard Mr. Prabhune, learned counsel for the applicant and Ms.Ambekar, learned APP for the respondent-State.

2. The applicant apprehends arrest in connection with FIR No.0396 of 2024 dated 28.05.2024 registered with Baramati City Police Station, District - Pune Rural, for offences under Sections 406, 409 and 420 read with Section 34 of the Indian Penal Code, 1860 as also Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. The informant, in the present case, is an auditor, who had conducted the audit of a co-operative society called 'Shri Shakambhari Nagari Sahakari Patsanstha Maryadit', of which the applicant was secretary from 2010 to 2014. The statement of the auditor / informant, leading to registration of the FIR, levels various allegations against the applicant and co-accused persons.

4. The learned counsel for the applicant submits that for similar allegations, the society had proceeded against the applicant and other

office bearers and by an order passed under Section 88 of the Maharashtra Co-operative Societies Act, 1960, the applicant was held partly responsible for some of the allegations. A challenge raised before the Divisional Joint Registrar of Co-operative Societies was negatived, as a consequence of which, the matter went up to the concerned Minister under the provisions of the said Act in the form of a revision application. It is pointed out that by an order dated 24.02.2020, the orders of both the subordinate authorities were set aside, indicating that the applicant and others were absolved of the allegations levelled against them. Yet, a special audit was undertaken in the year 2022, which led to a report in the year 2024 and the said report is the basis of the FIR. It is submitted that in the interregnum, initially, an administrator was appointed and now a liquidator is appointed on the society, as a consequence of which, all the documents are with the office of the liquidator. In any case, the allegations against the applicant are stale. Since the applicant is ready to co-operate with the investigation, it is submitted that the application may be allowed.

5. On the other hand, the learned APP has opposed the prayer made in the present application by inviting attention of this Court to the serious allegations of fraud and forgery levelled against the accused persons, including the applicant. It is highlighted that there is a specific allegation about loans being advanced to near relatives of the office bearers of the managing committee of the society on lesser interest rates and other such allegations.

6. This Court has considered the material on record. The documents on record indeed show that for similar allegations, the society had proceeded against the applicant and some other office bearers. While the subordinate authorities under the provisions of the said Act had partly held against the applicant and others, eventually, by the order dated

24.02.2020 passed by the revisional authority (the concerned Minister), the orders of the subordinate authorities were set aside. Apart from this, the documents on record show that administrator was appointed on the society for the period between 12.03.2018 and 17.12.2018 and thereafter, the liquidator has been appointed from 18.12.2018 onwards. Thus, there is substance in the contention raised on behalf of the applicant that as on today, the documents and record of the society are with the office of the liquidator. The nature of allegations is such that the evidence is documentary and the documents being in possession of the liquidator, there cannot be any apprehension of the applicant tampering with the same. That apart, this Court finds that the applicant was secretary of the society for the period between 2010 and 2014 and it can be claimed that the allegations are stale in nature. So long as the applicant is ready to co-operate with the investigation, relief can be granted.

7. Reliance placed on order dated **13.06.2022** passed in **Anticipatory Bail Application No.1447 of 2022** (*Suresh Babulal Ghiya and others Vs. State of Maharashtra*) also appears to be justified. In the said case, in similar circumstances, this Court had granted relief of anticipatory bail.

8. In view of the above, the application is allowed in the following terms:-

A. In the event the applicant is arrested in connection with FIR No.0396 of 2024 dated 28.05.2024 registered with Baramati City Police Station, District - Pune Rural, he shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] with one or two sureties in the like amount;

B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 22.08.2024 and thereafter as and when required by the investigating officer. He shall co-operate with the investigation;

C. The applicant shall not influence the informant, witness or any person concerned with the case and he shall not tamper with the evidence.

9. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail. 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.

10. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab