IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2590 OF 2024

Vallabh Prabhakar Joshi … Applicant

Vs.

State of Maharashtra … Respondent

Mr. Rameshwar Gite a/w. Mr. Sushant N. Tare and Mr. Hiten Raut for Applicant.
Ms. Megha S. Bajoria, APP for Respondent-State.
Mr. Amol Patankar a/w. Mr. Vatsal Thakkar for Informant.
Mr. Pandurang M. Waghmare, API, Vishrambaug Police Station, Pune City.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 25, 2024

P.C. :

. Heard Mr. Gite, learned counsel for the applicant and Ms.Bajoria, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0192 of 2024 dated 30.07.2024 registered with Vishrambaug Police Station, District - Pune City, for offences under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860 (IPC), as also Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID Act).

3. At the outset, the learned APP informs that this Court has already rejected anticipatory bail applications of co-accused Mithilesh Ashok Golap @ Gholap, Vilas Damodar Bam and Ashok Dattatray Kulkarni. It is further submitted that apart from offences under Sections 406 and 420 of the IPC, in the present case, offence under Section 3 of the MPID Act is also registered, which pertains to fraudulent default by a financial establishment. It is submitted that this is an economic offence and in the light of the role of the applicant, this Court may not consider showing

any indulgence.

4. The learned counsel for the applicant submits that the case of the applicant is distinguishable from that of the co-accused persons whose anticipatory bail applications have been dismissed by this Court. It is submitted that there is only a general and omnibus allegation made against the applicant, while naming him along with other accused persons, for having refused to entertain the informant when she was pursuing the accused persons to return the amount deposited by her. It is submitted that the applicant was in Korea between the year 2015 and 2018 and from March 2021 onwards, he was employed with the company Tech Mahindra at Chennai, thereby indicating that he could not have been present at the relevant time when the informant is said to have deposited the amounts and pursued the matter with the accused persons. It is also highlighted that the applicant himself has deposited huge amounts totalling to about Rs.16 lakhs with the Credit Co-operative Society - Ninad Nagari Sahakari Patsanstha Maryadit, with which the co-accused persons are concerned. On this basis, it is submitted that since the applicant is ready to co-operate with the investigation, his application may be allowed.

5. The informant, in the present case, has alleged that she deposited huge amount of Rs.11.5 lakhs with the aforesaid co-operative credit society as she was induced and lured into doing so on the promise of handsome returns. Neither the deposited amount nor the promised returns materialized and since the accused persons refused to entertain her request, she was constrained to approach the police, which led to registration of the FIR. The investigation has revealed that other such senior citizens were also allegedly duped by the accused persons concerned with the said co-operative credit society.

6. As noted hereinabove, the applications of three co-accused

persons have been already dismissed by this Court. One of the co-accused persons Vilas Damodar Bam had claimed that since he was only the manager and a part-time employee of the credit co-operative society, he ought to be granted relief of anticipatory bail. But, this Court specifically referred to the ingredients of Section 3 of the MPID Act, in order to hold against the said applicant.

7. The other co-accused persons i.e. Mithilesh Ashok Golap @ Gholap and Ashok Dattatray Kulkarni were found to have held positions in the managing committee of the credit co-operative society and that was one of the grounds for their applications being rejected.

8. In the present case, the applicant was the vice-chairman of the said credit co-operative society. Although the applicant now claims that he did not effectively associate with the credit co-operative society and it was only in an honorary capacity that he was shown as a vice-chairman, such contentions cannot be accepted at this stage, when relief of anticipatory bail is being considered. Similarly, the defence of *alibi* cannot be considered at this stage. The claim of the applicant that he was in Korea till 2018 is irrelevant for the reason that the allegations in the FIR concern the period between the years 2021 and 2023. It is brought to the notice of this Court by the learned APP, by producing the proceeding book of the aforesaid co-operative credit society, that the signatures of the applicant in the day-to-day proceedings of the *Patsanstha* very much demonstrates his active involvement.

9. This Court finds that such documentary material showing signatures of the applicant in the proceeding book makes out a *prima facie* case against him, indicating his active involvement with the credit co-operative society. Reliance placed on a purported letter of resignation dated 10.09.2024 on behalf of the applicant cannot be of much consequence because the FIR was registered on 30.07.2024 and the

aforementioned letter addressed by the applicant to the Deputy Registrar of the Co-operative Societies *prima facie* appears to be an afterthought. The effect of Section 3 of the MPID Act, as noted by this Court while dismissing the application of the co-accused Vilas Bam, has to be taken into consideration. The ingredients of Section 3 of the MPID Act are to the effect that when a financial establishment, like the credit co-operative society in the present case, indulges in fraudulent default, all those responsible for the management thereof or conducting the business of such a financial establishment are liable and the said provision stipulates punishment of imprisonment for a term, which may extend to six years. In the present case, the documents on record *prima facie* show that the applicant was the vice-chairman of the credit co-operative society and that Section 3 of the MPID Act would apply to him also.

10. No case is made out for granting anticipatory bail. The application is dismissed.

(MANISH PITALE, J.)

Minal Parab