

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 3041 OF 2024

1. Rajendra Maruti Thorat
2. Nandkumar Manik Vishwase ... Applicants
Versus
The State of Maharashtra ... Respondent

Mr. Nilesh Wable i/by Sumit Khaire for the Applicants.
Mr. Tanveer G. Khan, APP for Respondent-State.
Mr. Uttam Kamble, PSI, Yawat Police Station.

**CORAM: MANISH PITALE, J.
DATE : 11th NOVEMBER 2024**

P.C. :

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

2. At the outset, the learned counsel for the applicants submits that the present application deserves to be allowed on the principle of parity, as identically situated co-accused person Sandeep Baban Ladkat was granted relief by this Court in Anticipatory Bail Application No. 2573 of 2024.

3. While allowing the application of the said co-accused, this Court has made the following observations :

“10. The basis of registration of the FIR is the first audit report dated 08.03.2021. It is a matter of record that a re-audit being conducted led to the subsequent audit report

dated 27.02.2023. It is not as if the second audit report dated 27.02.2023, accepted by the aforesaid society, by resolution dated 14.03.2023, has given a clean chit to the persons responsible for misappropriation. Instead, the second audit report restricts the responsibility only to 2 persons and it is an admitted position that the applicant is not one of the 2 persons.

11. Since the proceedings initiated under the provisions of the Maharashtra Cooperative Societies Act, 1960, are yet to attain finality, it could be said that eventually the responsibility may either be restricted only to 2 persons, as identified in the second audit report dated 27.02.2023 or all the persons would be responsible as identified in the first audit report dated 08.03.2021, which is the basis for registration of the subject FIR dated 22.10.2021.

12. It is also to be noted that the question of recovery from individuals would arise depending on the persons purportedly responsible for misappropriation being identified by the auditor. The existence of two reports on record, is a factor that ought to inure in favour of the applicant, as the subsequent report does not identify him as a person responsible for misappropriation.

13. When the situation is in a flux, specifically noticed by the Sessions Court itself, this Court is of the opinion that putting the applicant behind bars would not serve any purpose, so long as he is ready to cooperate with the investigation. The very nature of the allegations leveled in the present case concerns documentary material. The applicant would certainly cooperate with the investigation and the Investigating Authority would be free to collect such documents as it desires from the office of the said society. Therefore, this Court is of the opinion that the present application can be allowed.”

4. It is not disputed that the applicants in the present application are identically situated as the co-accused Sandeep Baban Ladkat to the extent that they are also not one of the two

persons, specifically identified in the second Audit Report dated 27th February 2023, as being responsible for the misappropriation. The applicants herein are also ready to cooperate with the investigation. In that light, this Court is convinced that present application can also be allowed.

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

(a) In the event the applicants are arrested in connection with FIR No. 0940 of 2021 dated 22nd October 2021 registered at Yawat Police Station, Dist. Pune, they shall be released on bail on furnishing PR Bond of Rs.50,000/- each and one or two sureties each in the like amount, to the satisfaction of the trial Court.

(b) The applicants shall remain present before the Investigating Officer on 13th November 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when required by the Investigating Officer. The applicants shall cooperate with the investigation.

(c) The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses or any other person concerned with the case.

6. 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.

7. The application is disposed of.

MANISH PITALE, J.