



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.471 OF 2023

Mahesh Kisan Motewar

Vs.

State of Maharashtra, Through Police Station Officer, Sitabardi, Nagpur
City, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. B. Rathod, Advocate for applicant.

Mr. N. B. Jawade, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/07/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.271/2018 registered with Sitabardi, Nagpur Police Station (Economic Offences Wing Crime No.90/2018) for the offences punishable under Sections 406, 409, 420, 120-B of the Indian Penal Code read with Section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, the applicant approached this Court for grant of pre-arrest bail.

2. As per the recitals of the FIR lodged by Nandlal Kanhaiyalal Aalwani that the financial scheme of the Samruddha Jeewan Multistate Multipurpose Co-operative Limited was demonstrated to him by one Smt. Suvarna Motewar who is the sister-in-law of the present applicant and thereby he invested Rs.2,00,000/- and submitted a purchase bill of buffalo of Rs.80,000/-. It was allegedly contended

that in response to that four buffalo or Rs.4,00,000/- is to be returned on 22.12.2019, but he neither received any amount from the same Society. Subsequently, he came to know that the organization is kept down and thereby all the business is stopped, therefore, he approached to the police and lodged the report.

3. Heard learned Counsel Mr. Rathod for the applicant. He invited my attention towards the communication dated 10.10.2023 addressed to the Board of Directors by the present applicant showing that the present applicant has resigned as a Chairman on 10.10.2013 and his resignation as a Chairman would come into effect from 17.10.2013. He further pointed out the order passed by the Agriculture Ministry dated 18.04.2016 showing that the said Samruddha Jeewan Multistate Multipurpose Co-operative Society is handed over to the Liquidator by appointing the Liquidator. Thus, from 18.04.2016 the said Society is in liquidation therefore, the question of accepting the amount by any other person does not arise.

4. He submitted that from the FIR admittedly, the amount invested by the present complainant was after March 2014. He submitted that the recitals of the FIR specifically shows that the complainant approached to co-accused Survana Motewar on 23.06.2024 thereafter, he has invested the amount. Admittedly, at the relevant time, present applicant

was not either Chairman or the office bearer of the said Society. The present applicant is already released on bail by the Hon'ble Apex Court in two other crimes. The applicant is also released on bail in Crime No.319/2019. He submitted that considering no role is attributed to the present applicant either in the FIR or the document shows that he was not the office bearer at the relevant time, his custodial interrogation is not required, in view of that, he be protected by granting anticipatory bail.

5. Learned APP strongly opposed the said application on the ground that the statement of the co-accused shows it was the present applicant, who was actively involved in the business of the Society. He also pointed out one sale registration letter which bears the signature of the present applicant. Thus, he submitted that this document sufficiently shows the involvement of the present applicant in the alleged offence. Considering the *prima facie* case and in all 22 FIRs are lodged against the present applicant in various districts, his custodial interrogation is required and therefore, the application deserves to be rejected.

6. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. There is no dispute as to the fact that present applicant has tender his resignation on 10.10.2013 which came into effect from 17.10.2013. Thereafter, on 18.04.2016 Agriculture

Ministry has passed an order and the Society was handed over to the Liquidator. Admittedly, the transaction of the complainant alleged to be in the year 2014 i.e. after 23.06.2014. The investment by the complainant is after 23.06.2014. Thus, at the relevant time, present applicant was neither a Chairman nor office bearer of the said Society. As by order dated 18.04.2016 the Society was handed over to the Liquidator. In view of the resignation tendered by the present applicant, he was not Chairman at the relevant time. Though learned APP pointed out the statement of the co-accused and one document but said document i.e. agreement to sell was executed on 15.09.2012 before the applicant resigned, whereas it was complied on 15.09.2014 i.e. after the resignation of the present applicant.

7. Considering the fact that the applicant is already protected by this Court at Principal Bench in Crime No.319/2019 as well as he is also protected by the Hon'ble Apex Court in other two crimes. Moreover, the entire investigation revolves around the documentary evidence which is already in possession of the investigating agency. The custodial interrogation of the present applicant is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.

(ii) The applicant **Mahesh Kisan Motewar** shall be released on bail in the event of arrest in connection with Crime No.271/2018 registered with Sitabardi, Nagpur Police Station (Economic Offences Wing, Nagpur Crime No.90/2018) for the offences punishable under Sections 406, 409, 420, 120-B of the Indian Penal Code read with Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the Economic Offences Wing, Nagpur on every Monday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency, till filing of the charge-sheet.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any witnesses acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.

(v) The applicant shall not leave India without prior permission of the District Court, Nagpur.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)