



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

CRIMINAL APPLICATION (ABA) NO.752 OF 2023

Anjali Sumantrao Pant

Vs.

State of Maharashtra, Through Police Station Officer, Malkapur City
(Economic Offences Wing), District Buldhana

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.
Ms. Shamshi Haider, APP for respondent /State.
Mr. H. R. Gadhia, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/04/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.368/2023 registered with Police Station, Malkapur City, District Buldhana for the offence punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code and under Section 146 of the Maharashtra Co-operative Societies Act, 1960, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by the Auditor alleging that the applicant is the founder and chairperson of Unnati Mahila Nagari Pat Sanstha Limited, Malkapur. It is also alleged that in the year 2002 and 2005, she has obtained the loans in her name as well as in the

name of her relatives and the said loan amounts are not repaid. It is further alleged that instead of repaying the said loan amount, she adjusted the amount reserved for N.P.A., bad debts, dividends and provident funds etc. and closed their loan accounts. Thereby she has duped the Society for the amount of Rs.5,24,80,180/- with the help of the Accountant Ramesh Tandule. On the basis of the said report, police have registered the crime against the present applicant. It is further alleged that Ramesh Tandule by using user ID and password misappropriated the amount of Rs.1,07,01,972/-.

3. Learned Counsel Mr. Sirpurkar for the applicant submitted that as far as the present applicant is concerned, at the most role of the present applicant attributes the negligence and not more than that. He submitted that entire transaction carried out by the Accountant Ramesh Tandule and the allegation of misappropriation is against the said Ramesh Tandule, therefore the custodial interrogation of the present applicant is not required. He also invited my attention towards the order passed by DDR, who has taken cognizance of the application filed by the applicant and directed the re-audit of the said institution. He submitted that considering the re-audit is not yet conducted. In view of that, the immediate custodial interrogation of the present applicant is not required and therefore, the applicant

be released on anticipatory bail in the event of her arrest.

4. Learned APP strongly opposed the said application on the ground that considering the huge stake of the amount which is involved in the said misappropriation, the custodial interrogation of the present applicant is required. She further submitted that the present applicant was the founder and the chairperson of Unnati Mahila Nagari Pat Sanstha and she has obtained the loan in the names of his relatives and instead of repaying the said loan, she adjusted the said amount against the reserved amount for the N.P.A. and bad debts, therefore the custodial interrogation is required.

5. Learned Counsel Mr. Gadhia, for assisting the prosecution also objected the application and submitted that the amounts of the several depositors is pending with the said Society and they are duped. Considering the same, the application for the anticipatory bail deserves to be rejected.

6. Having heard the learned Counsel for the applicant and learned APP for the State and learned Counsel for assisting the prosecution, perused the recitals of the FIR. The allegation against the present applicant is that she has obtained the loan in the names of the relatives and the various employees of the said Society. Admittedly, the FIR is lodged on the

basis of the audit report. Now, the said audit report is challenged by the present applicant and DDR has passed an order on 06.02.2024 and directed the re-audit of the Society. Order of the DDR shows that the applicant has filed an application and pointed out some discrepancies in the initial audit on the basis of which the said crime is registered. Considering the order of the DDR, immediate custodial interrogation is not required. The re-audit is not yet commenced as the present applicant has not deposited the fees of the re-audit. Therefore, it is necessary to direct the applicant to pay the fees for the re-audit.

7. Admittedly, the involvement of the present applicant is in the economic offence the Hon'ble Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and another** reported in **2022 LiveLaw (SC) 577** consider the aspect of the economic offence and observed that we are conscious of the fact that the accused are charged with economic offences of huge magnitude. At the same time it is to be considered that the grant or refusal to grant bail lies with the discretion of the Court, the grant or denial is regulated to a large extent. By referring the judgment of **P. Chidambaram vs. Directorate of Enforcement**, reported in **(2020) 13 SCC 791** and **Sanjay Chandra vs. CBI** reported in **(2012) 1 SCC 40**. It is observed that the grant or refusal to grant bail lies within the discretion of the court. The grant or denial

is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

8. In the light of the above observations if the facts and circumstances of the present case are considered admittedly the crime is registered on the basis of report lodged by the Auditor. Now, the said audit report is challenged by the present applicant and the DDR has directed to re-audit the accounts of the Society i.e. Unnati Mahali Nagari Sahakari Pat Sanstha Maryadit Malkapur of which the applicant was a chairperson.

9. Considering the order of the DDR of re-audit, immediate custodial interrogation is not required. In view of that, the application of the present applicant deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Anjali Sumantrao Pant** shall be released on anticipatory bail in the event of her arrest in connection with Crime No.368/2023 registered with Police Station, Malkapur City, District Buldhana for the offence punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code and under Section 146 of the Maharashtra Co-operative Societies Act, 1960, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall immediately deposit the fees of the re-audit within two days after DDR communicates the amount of the fees towards the re-audit.
- (iv) The applicant shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency.
- (v) After re-audit report is received and if the investigating agency finds any substance levelling the charges against the present applicant, the State is at liberty to file an appropriate application.
- (vi) The applicant shall not induce, threat or promise any witnesses who are acquainted with the alleged crime.

10. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)