



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 ANTICIPATORY BAIL APPLICATION NO. 1362 OF 2024

HARIPRASAD RAMDHAN DARAKH
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. P.C. Bhagure and Mr. N.V. Vireshwar h/f. Mr.
N.I. Deshmukh

APP for Respondent/State : Mr. S.K. Shirse

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CORAM : ARUN R. PEDNEKER, J.

Dated : January 31, 2025

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant is apprehending arrest in connection with Crime No. 180/2024 dated 26.6.2024 registered with Jawaharnagar Police Station, Chhatrapati Sambhajinagar for the offences punishable under sections 406, 409, 420, 120-B r/w. 34 of I.P.C. and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (Financial Institutions) Act, 1999.
3. The applicant is the auditor of Rajasthani Multistate Cooperative Credit Society Ltd., Parli-Vaijnath. The allegations against the applicant is that the applicant has not informed about the illegalities committed by the aforesaid Society to the concerned authority i.e. Central Registrar Multistate Cooperative Society.
4. The learned counsel for the applicant submits that in terms of section 73 of the Multi-State Cooperative Societies Act, the auditor has to make report to the concerned society in respect of the accounts examined by him and on every balance-sheet and profit and loss account and the auditor is

not under obligation to inform in respect of above to the above authority.

5. The learned APP points out the judgment in the case of **Dhanraj N. Asawani vs. Amarjeetsingh Mohindersingh Basi and Ors. in Criminal Appeal No. 2093/2023 arising out of SLP (Cri) No. 1715 of 2022 dated 25.7.2023** and submits that in case of cooperative society, it is the duty of the auditor to report to the Registrar under section 81(5B) of the Maharashtra Cooperative Societies Act, 1960 when there is misuse of the funds of the society by the governing body. However, there is no para materia provision pointed out in the Multi-State Cooperative Act to show that the auditor is required to inform any authority as regards violation made by the Directors or the Managing Body.

6. It appears that prima-facie the duty is cast upon auditor under section 73 to inform the concerned society about the accounts examined by him and about every balance-sheet and profit and loss account. The learned counsel for the applicant submits that in terms of the provision of section 73 of the Multi-State Cooperative Act, the applicant had informed the society as regards the day to day affairs of the society. Police papers show that the auditor has place the report before the Society.

7. This Court has granted interim protection to the applicant vide order dated 12.8.2024. The learned counsel for the applicant submits that the applicant has cooperated with the investigation in pursuance of the interim order passed by this Court. Considering that applicant has prima faice discharged his duty as would be applicable to him, the interim protection granted on 12.8.2024 need to be confirmed.

8. In view of the above, the application is allowed and the interim protection granted on 12.8.2024 is confirmed on the following terms :

i] The applicant shall attend the police station as and when required.

ii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iii] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

9. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

10. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

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