IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 2042 OF 2024

. Archana Suresh Kute,
Age: 40 Years, Occupation: Business,
R/o.: Tirumala Residency, Sy. No. 51 & 52,
Mauje Bhairwadi, Taluka & District: Beed ..**Applicant**

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Paithan Police Station, Paithan,
Taluka: Paithan, District: Chhatrapati
Sambhajinagar

2. The Superintendent of Police,
Chhatrapati Sambhajinagar (Rural),
Taluka & District: Chhatrapati
Sambhajinagar ..**Respondents**

...

Advocates for Applicant :
Mr. Vishal Kale, Mr. Prashant Shinde & Mr. S. V. Suryawanshi
APP for Respondent/State: Mr. P. K. Lakhotiya

...

WITH

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CRIMINAL APPLICATION NO. 4770 OF 2024 IN ABA/2042/2024

RAVI RAJKUMAR ROHRA AND OTHERS

VERSUS

ARCHANA SURESH KUTE AND ANOTHER

...

Advocate for Applicant : Mr. Jarare Prasad Devidas
APP for Respondent/State: Mr. P. K. Lakhotiya

Advocate for Respondent No.1 : Mr. Mr. S. V. Suryawanshi

...

WITH

...

CRIMINAL APPLICATION NO. 4771 OF 2024
IN
ABA/2042/2024

MUKESH SHRICHAND PANJWANI

VERSUS

ARCHANA SURESH KUTE AND ANOTHER

...

Advocate for Applicant : Mr. Jarare Prasad Devidas
APP for Respondent/State: Mr. P. K. Lakhotiya
Advocate for Respondent No.1 : Mr. Mr. S. V. Suryawanshi

...

WITH

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CRIMINAL APPLICATION NO. 4777 OF 2024
IN
ABA/2042/2024

RAHANE URMILA SHOK AND OTHERS

VERSUS

ARCHANA SURESH KUTE AND OTHERS

...

Advocate for Applicant : Ms. P. S. Talekar i/b. Talekar And Associates
APP for Respondent/State: Mr. P. K. Lakhotiya
Advocate for Respondent No.1 : Mr. Mr. S. V. Suryawanshi

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WITH

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CRIMINAL APPLICATION NO. 4802 OF 2024
IN
ABA/2042/2024

SHYAM RAMPRASAD LOHIYA

VERSUS

ARCHANA SURESH KUTE AND ANOTHER

...

Advocate for Applicant : Mr. Sachin Kunte h/f. Mr. Avinash Anandrao Aute
APP for Respondent/State: Mr. P. K. Lakhotiya
Advocate for Respondent No.1 : Mr. Mr. S. V. Suryawanshi

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WITH

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CRIMINAL APPLICATION NO. 4899 OF 2024
IN
ABA/2042/2024

RADHA W/O RAMESHWAR IMADE
VERSUS
ARCHANA W/O SURESH KUTE AND ANOTHER

...

Advocate for Applicant : Ms. Jagtap Rutuja Machindra
APP for Respondent/State: Mr. P. K. Lakhotiya
Advocate for Respondent No.1 : Mr. Mr. S. V. Suryawanshi

...

CORAM	**:**	**ARUN R. PEDNEKER, J.**
DATE	**:**	**03.03.2025**

ORDER:

1. Heard learned counsel for the applicants Mr. Vishal Kale, Mr. Prashant Shinde & Mr. Surendra V. Suryawanshi, Mr. Jarare Prasad Devidas, Ms. P. S. Talekar i/b. Talekar And Associates, Mr. Sachin Kunte h/f. Mr. Avinash Anandrao Aute, Mr. Jagtap Rutuja Machindra and Mr. P. K. Lakhotiya, learned APP for the respondent-State in respective applications.

2. The applications for assist to learned public prosecutor were already allowed vide order dated 09.01.2025 and seems to be inadvertently listed today. Hence, Remove from board.

3. The applicant is apprehending arrest in connection with Crime No.0230/2024, dated 09.06.2024, registered at Paithan Police Station, District Aurangabad (Rural), for the offences punishable under Sections 420, 409, 467, 120-B r.w. 34 of the Indian Penal Code, 1860 & under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 & under Sections 21 and 22 of the Banning of Unregulated Deposit Schemes Act, 2019.

The FIR / crime relates to large scale fraud by the husband of the applicant and the applicant and other accused, wherein lakhs of depositors of the Dyanradha Multistate Co-Operative Credit Society Limited has lost their money.

SUBMISSIONS

ON BEHALF OF THE APPLICANT:

4. The learned counsel for the applicant submits that the above offences are being investigated by the Economic Offences Wing (EOW) Sambhajinagar Rural. That present investigation agency have investigated more than 10 FIRs and the main accused namely Suresh Kute has been arrested and he is now in custody of Enforcement Directorate, Mumbai. That said Investigation Agency has investigated these FIRs and also have filed Charge- sheet in few of the offences.

5. The learned counsel for the applicant submits that the present Applicant is dragged in the present FIR just because her husband was the Director of the Dyanradha Multistate Co-Operative Credit Society Limited, Beed Branch Paithan. That present Applicant is Director in Kute Group and nowhere concerned with affairs of the Dyanradha Multistate Co-Operative Credit Society Limited, Beed Branch Paithan. The learned counsel submits that, the both

Dyanradha Multistate Co-Operative Credit Society Limited, Beed Branch Paithan and Kute Group are totally different legal entity established under the different provision of laws but the Respondent has wrongly implicated the present Applicant in the said FIR just because she being "Wife" of the main Accused Suresh Kute.

6. The learned counsel for the applicant submits that the Applicant is undergoing the treatment of brain stroke and intracranial injury and cerebral venous sinus thrombosis which can be proved by the Medical Reports which are produced on record. That the Applicant is only lady in the house who has to take care of her old age mother who is of 90 years old and also having minor child and there is no one to take care of them.

7. The learned counsel for the applicant submits that only role in said FIR is attributed to her is that she is alleged to be a business promoter in the above said Credit Society. That considering the allegations in FIR as it is, there is not a single document to prove or state that present

Applicant was a business promoter of the above said credit society and, therefore, no prima facie case is made out against the present Applicant.

8. The learned counsel for the applicant submits that the prosecution as part of their investigation has caused audit trail into affairs of the above said society by one CA firm namely Prasad Kulkarni and company. The list of promoters and Directors of the said Society on investigation by prosecution is identified and confirmed by auditor. Applicant is neither promoter nor Director in the affairs of the society since 2010; its inception. This fact is also confirmed by the prosecution while they have attached the record of society they found the list of directors in record. She was not a Director or Chairman or held any official post in the said society and, therefore, the Applicant deserves pre-arrest bail as no prima facie role and case is made out against the present Applicant and considering this factual and legal aspect, the conclusion be drawn as under:-

(A) Applicant is not a Director of the said society and not a promoter in society as alleged and, therefore, being borrower of the said society, it comes under the purview of the pure civil dispute.

(B) That even if the present Applicant and main Accused Suresh Kute are Husband and Wife and comes under the "Fiduciary Relationship" does not establish the criminal liability and, therefore, without any concrete evidence and documents, this applicant deserve pre-arrest bail in the present FIR.

(C) She is not entrusted with the property or there is no misappropriation of property hence 409 is not applicable to her.

(D) She has not accepted any deposit or part of above said society so, prima facie, MPID section 3 and 4 is not applicable.

(E) There is no intention to cheat which can be ascertained from the remand application of Enforcement Directorate.

9. The learned counsel for the applicant relies upon the following Judgments / Orders:

*** <u>PASSED BY THE HON'BLE APEX COURT</u>:-**

(A) State of Gujarat Vs. Jaswantlal Nathalal, (1968) 2 SCR 408

(B) Hridaya Ranjan Prasad Verma and others Vs. State of Bihar and another, (2000) 4 SCR 168
(C) Krishna Govind Patil Vs. State of Maharashtra, (1964) 1 SCR 678
(D) Sanjay Chandra Vs. Central Bureau of Investigation, (2012) 1 SCC 40

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* PASSED BY THE BOMBAY HIGH COURT:-

(E) Vaijinath Anna Dake Vs. The State of Maharashtra in Bail Application No.1586 of 2024, dated 18.10.2024, Bombay High Court, Aurangabad Bench.

ON BEHALF OF THE STATE:

10. The learned APP submits that after the registration of the FIR, investigation is going on and during the investigation it transpired that, the present applicant who is the wife of Mr. Suresh Dnyanoba Kute who is Chairman and founder of Dnyanradha Multistate Cooperative Society, Beed and all over Maharashtra over 2 lakh depositors / investors have been cheated.

11. The learned APP further submits that during the investigation it is come on record that, the present applicant Archna Kute is one of the Director of Dnyanradha Multistate

Cooperative Credit Society Beed. The amounts was transferred to main branch at Beed from the various deposits and accounts from the Paithan Branch.

12. The learned APP further submits that during investigation, it has also come on record through various statements and investigation papers collected from various offences registered with different police stations, that though the FIR is registered at Paithan Police Station is in tune of Rs. 3,26,93,313/- but the amount is going to be increased till filing of charge sheet because after getting the knowledge and after registration of FIR, various person including depositors those who have deposited the money with the bank are coming forward to give their statements.

13. The learned APP further submits that during investigation it is transpired that, present applicant along with her husband namely Suresh Kute who is Chairman and founder of the Society are having 12 companies registered in their name in which either they were Chairman or Director of those companies. These 12 companies in fraudulent

manner have obtained the loan from Dnyanradha Multistate Cooperative Society Bank by putting the influence being Chairman and Director of the said Cooperative Society. The amount of loan outstanding against the husband and wife (applicant) in various companies is in tune of Rs. 3600 crores approximately and most importantly the amount to be paid by the Dnyanradha Multistate Cooperative Societies to the depositors all over Maharashtra is to the tune of Rs. 3000 crores approximately. It seems that, the husband and wife duped the bank by misappropriation of the amount of Bank and it was shown as outstanding loan amount to the tune of Rs. 3600 crores which is due as on today to the bank.

14. The learned APP further submits that during investigation, it is revealed that, one company namely DNR India Auto Care Pvt. Ltd is owned by present applicant and her husband who is chairman and founder of the society. As on today Rs. 910 Crores is outstanding against this company. During the investigation it is found that from this DNR Auto Car Pvt. Ltd Company account crores of rupees have been

transferred to the private and saving accounts maintained by the Society those are in the name of Driver of the applicant and other close relatives. From those accounts crores of rupees have been withdrawn in cash therefore, all these FIR required to be investigated.

15. The learned APP further submits that the fraud in this crime has to be investigated thoroughly and as on today there are more than 45 FIR's have been registered all over the Maharashtra about the Dnyanradha Multistate Cooperative Society in which husband of the applicant is prime accused and applicant is one of the Director of main branch at Beed and, as such, the custodial interrogation of the applicant is required for further investigation to find out where the money has gone and where it was invested by the applicant.

16. The learned APP further submits that since the date of FIR the present applicant is absconding; she is also accused in all the FIRs all over Maharashtra registered against the said Credit Society and in all the offence she is

till today absconding and for through investigation her custodial interrogation is very much necessary.

17. The learned APP further submits that as on today charge sheet is not yet filed and investigation is still in progress, as such, at this stage, Anticipatory Bail Application of applicant cannot be entertained as it will hamper the investigation.

CONSIDERATION

18. On consideration of rival submissions, it is to be noted that the Chairman and Directors of the bank (including the applicant) misused their positions in collusion with directors of Kute Groups to extend huge loans to their own companies (Kute Groups) viz. DNR India Autotech Pvt. Ltd., Tirumala Edible Oil Refinery India Pvt. Ltd., Sankalp Ginning Industries LLP, Shri Tirumala Pressing Factory LLP, Shri Tirumala Cotton Cake Trading LLP, Tirumala Groundnuts Industries India Pvt. Ltd., Tirumalla India Storehouse Pvt. Ltd., Kute Sons Industries Pvt. Ltd., DNY Remedies India Pvt. Ltd., DNY Supply Chain Solutions Pvt.

Ltd., Tirumalla Agro Industries Pvt. Ltd., Tirumalla Edible Oil and Foods India Pvt. Ltd., Bael Leaf Enterprises Pvt. Ltd. Without appropriate security in form of mortgaging properties. These loans were to the tune of Rs.3500 crores (approximately).

19. The Kute Group has been closed down by the Chairman and other Directors of Kute Group by misappropriating crores of rupees of the Dyanradha Multistate Co-Operative Credit Society Limited. That, lakhs of depositors all over the Maharashtra State have lost their money.

LAW ON THE SUBJECT

20. The law on grant of anticipatory bail / regular bail in economic offences is discussed in the below mentioned Judgments of the Hon'ble Apex Court.

21. The Hon'ble Apex Court in the case of **Tarun Kumar Vs. Assistant Director, Directorate of Enforcement,**

AIR 2024 SC (Criminal) 217, at para 22, has observed as under:

> *"**22.** Lastly, it may be noted that as held in catena of decisions, the economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country. Undoubtedly, economic offences have serious repercussions on the development of the country as a whole. To cite a few judgments in this regard are Y. S. Jagan Mohan Reddy v. Central Bureau of Investigation (2013) 7 SCC 439, Nimmagadda Prasad v. Central Bureau of Investigation (2013) 7 SCC 466, Gautam Kundu v. Directorate of Enforcement (2015) 16 SCC 1, State of Bihar and Another v. Amit Kumar alias Bachcha Rai (2017) 13 SCC 751. This court taking a serious note with regard to the economic offences had observed as back as in 1987 in case of State of Gujarat v. Mohanlal Jitamalji Porwal and another as under:*
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>> *"**5**....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the*

> *community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and Nation Interest..."*

> ***23.*** *With the advancement of technology and Artificial Intelligence,the economic offences like money laundering have become a real threat to the functioning of the financial system of the country and have become a great challenge for the investigation ageneses to detect and comprehend the intricate nature of transactions, as also the role of the persons involved therein. Lot of minute exercise is expected to be undertaken by the Investigating Agency to see that no innocent person is wrongly booked and that no culprit escapes from the clutches of the law.*

22. The Hon'ble Apex Court in the case of **P. Chidambaram Vs. Directorate of Enforcement, AIR 2019 SC 4198**, at para 81, has observed as under:

> *"**81.** Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation...."*

23. The Hon'ble Allahabad High Court in the case of **Hriday Nand Singh Vs. State of U. P. and another, dated 18.03.2024, Criminal Miscellaneous Bail Application No.50076 of 2019, Neutral Citation No.- 2024:AHC:47784**, at para 13 has observed as under:

> *"13. In* ***Satpal Singh Vs. State of Punjab (2018) 13 SCC 813****, the Supreme Court has held that the satisfaction of the court for granting protection under Section 438 Cr.P.C. is different from the one under Section 439 Cr.P.C. while considering regular bail. In* ***Pratibha Manchanda and another Vs. State of Haryana and another (2023) 8 SCC 181****, the Supreme Court has opined that the relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest."*

CONCLUSION

24. Applying the law as laid down by the Hon'ble Apex Court in the above noted cases for economic offences for grant of bail to the facts of the present case, this court cannot grant anticipatory bail to the applicant. Prima facie,

large number of depositors have lost their money on account of fraud played by the applicant and other accused. The applicant and her husband using their position in the Dyanradha Multistate Co-Operative Credit Society Limited has obtained huge loans from the bnak without security and has defrauded the bank and it's investors / depositors. The magnitude of fraud is exceptionally large and the amounts embezzled has to be recovered. Entire *modus operandi* of the fraud has to be uncovered and evidence has to be gathered to substantiate the claim of the prosecution. Economic offences are layered and thorough investigation becomes necessary. Thus, this is not a fit case for grant of anticipatory bail.

<u>ORDER</u>

25. The Anticipatory Bail Application stands dismissed.

[ARUN R. PEDNEKER, J.]

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