

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4641 OF 2024

Sanjay Ganpat Pandhare

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Ameya A. Pitale for Applicant
- Ms. Mahalakshmi Ganapathy, APP for State

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 18, 2025

P. C.:

1. Heard Mr. Pitale, learned Advocate for Applicant and Ms. Ganapathy, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in connection with Crime No. I-296/2023 registered with Kinhavali Police Station, Thane for offences punishable under Sections 409, 420, 464, 468 and 34 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. Principal accused in the crime is one Jairam Ganpat Sogir, the center head and सरसंचालक of Grain Purchase Centre of Sakadbav Adivasi Vividh Sahakari Sanstha Ltd situated at Shahapur. The managing committee of the said Grain Purchase Centre is managed by the center head who is appointed by the Government along with the

managing committee of the Co-operative Society i.e. Sahakari Sanstha under the supervision of the Statutory Officers of the Government. Purchase of grains is done online and once the grains are received in the godown, it is the duty of the center head along with the entire managing committee of the society to ensure its proper and appropriate storage, prepare appropriate Hundis and ensure its appropriate disposal and disbursement in accordance with law.

4. In the present crime, there are total 6 accused. Center head Mr. Jairam Ganpat Sogir is the principal accused person. Along with him there are 3 government officials i.e. Regional Manager, Javhar; Sub-Regional Manager, Shahapur and Government Marketing Inspector. All these 4 government officials are entrusted with the statutory duty of purchase of foodgrains and its subsequent disposal in accordance with law. Apart from the aforesaid 4 accused persons, the Chairman and Secretary of the Society are also impleaded and implicated as accused persons in the crime. The Secretary of the Society is arraigned as accused No. 1 and he is seeking bail on account of his long incarceration since 25.06.2024.

5. On 17.02.2025 this Court after hearing Mr. Pitale and learned APP passed the following order:-

"1. Mentioned out of turn at the time of rising of the Court.

2. *Heard Mr. Pitale, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent.*

3. *Applicant before me is arrested and incarcerated since 25.06.2024. He is the Secretary of the Society in which there has been an enquiry for undersupply of foodgrains. Mr. Pitale would submit that Tribal Development Department appoints a Centre Head who is the principal person in-charge of procurement of foodgrains and responsible for running of the centre.*

4. *Mr. Pitale would submit that there are 3 godowns where there is shortfall of foodgrains which are located in Shahapur, District – Thane. He would submit that indictment of Applicant being the Secretary is unwarranted since the main culprit is the centre-head who is absconding as on date. He would submit that role of Secretary and managing committee members of the Society is purely administrative in nature under the Maharashtra Co-operative Societies Act, 1960. He would therefore persuade the Court that the Secretary has no administrative powers as such nor Applicant being the Secretary of the Society has committed any transgression of his power so as to reward himself illegally. He would therefore persuade the Court to consider the Application of Applicant for grant of bail.*

5. *One more reason which impels this Court to pass the order is that Applicant before me himself has lodged a written complaint dated 25.10.2023, two months prior to the filing of First Information Report regarding irregularities which is registered on 07.12.2023 on which no action was taken. I want the prosecution to inform the court as to what did they do about this very complaint filed by Applicant so as to consider the case of Applicant for bail.*

6. *Ms. Ganapathy, learned APP takes cognizance of the matter. She is directed that she ensures that she takes appropriate instructions from the Investigating Officer in the present case and apprise the Court with respect to the role of Applicant in the present crime. This Court is of prima facie opinion that unless and until the prosecution is able to show that the Secretary has played any role so as to cause any loss to the Government or to the Society, the Court should consider the case of Applicant. Prosecution shall also let the Court know as to why further custody of Applicant is required when the present case prima facie would be required to be seen from the perspective of documents only.*

7. *Stand over to 18th March, 2025 at 02:30 p.m."*

6. Today in response to the aforesaid order, Ms. Ganapathy, learned APP, upon instructions, has submitted that the duty of the Applicant along with the center head is delineated in the Government

Communication dated 17.01.2023. The said communication has been placed before the Court for perusal wherein it is, *inter alia*, contended that both the Applicant and the center head are required to ensure their presence in the godown and the responsibility for the disbursement and disposal of the purchased food grains shall rest upon the entire society. *Prima facie* in view of the said communication dated 17.01.2023 and as observed by this Court on 25.10.2023 the present Applicant i.e. Secretary of the Society had filed a detailed complaint which has been acknowledged by the Government, *inter alia*, pointing out alleged irregularities in the purchase of foodgrains on which the Government has taken no action whatsoever. It is further delineated in the aforesaid order that the role of the Applicant, as *prima facie* seen from the chargesheet was required to be placed before the Court. If the Applicant is required to be implicated then under the aforesaid Government communication dated 17.01.2023, the responsibility lies not only with the Applicant or Chairman of the Society but the entire Managing Committee of the society as stated therein and each and every Committee member is therefore required to be implicated which is not the case over here.

7. Learned APP has also referred to and relied upon certain statements of the office bearers of the Society which are appended to the chargesheet. If those statements are perused, *prima facie*, it

appears that the said office bearers have replicated the names of the center head, the present Applicant, and the Chairman, Mr. Harish Daroda, as having undertaken the entire responsibility of operating the foodgrains purchase center. The statements of the office bearers do not etch out the roles for one reason and that is even according to the chargesheet which has been filed, along with centre head, three government officials who are arraigned as co-accused in the present crime and responsible for the purchase / administration and disbursal of the foodgrains have also been implicated. *Prima facie* there is no incriminating material shown to the Court qua the Applicant's participation in the alleged offence. Considering that *prima facie* no specific role has been brought out by the prosecution, Applicant has made out a case for bail. Needless to state that complicity of the Applicant shall be determined by prosecution at the time of trial on evidence. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release

from jail to the concerned Police Station and also to the trial Court;

- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (v) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) He shall deposit his passport, if any, with the Investigating Officer;
- (viii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

8. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

9. Bail Application is allowed and disposed.

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[MILIND N. JADHAV, J.]

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