AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2867 OF 2025

Ashok Dyanu Hajare … Applicant
V/s.
State of Maharashtra … Respondent

Mr. Satyavrat Joshi with with Mr. Samay Pawar for the applicant.

Mrs. Kranti T. Hiwrale, APP for the respondent-State.

Mr. Mangesh Ramesh Mundhe, PSI, Poladpur Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 15, 2025

P.C.:

1. The applicant has filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking protection from arrest in connection with Crime Register No. 53 of 2025 registered with Poladpur Police Station. The offences alleged are under Sections 316(2), 318(4), 336(2), 338, and 340(2) of the Bharatiya Nyaya Sanhita, 2023.

2. The prosecution case is that the complainant, who is an Auditor of Cooperative Societies, Pen, District Raigad, was authorized to conduct the audit of Poladpur Taluka Sarkari Karmachari Sahakari Patsanstha Maryadit for the period from 1 April 2018 to 31 March 2023. The complainant completed the audit by 30 June 2025 and noticed financial irregularities in the affairs of the society. The society has its main branch at Poladpur and other branches at Mangaon, Mahad, Shrivardhan, and Panvel. The business of the society was not functioning properly for the last five years and the society was facing financial difficulties.

3. During the course of the audit, the complainant examined transactions of the society from 2003 to 2005 and discovered that large-scale misappropriation had taken place. The misappropriation was allegedly committed through bogus loan accounts, false deposit receipts, and withdrawal of funds through bearer cheques. Between 2003 and 2006, a total sum of Rs.44,44,351/- was allegedly misappropriated from the branches at Poladpur, Mangaon, and Mahad by creating false deposits and sanctioning fictitious loans. Based on this, the complainant filed a report against the applicant who was then serving as Chairman and Director of the society, leading to registration of the FIR.

4. Learned Advocate Mr. Joshi for the applicant submitted that there is no material to connect the applicant with the alleged offence. The applicant was the Chairman of the society from 1999 to 2017. The statutory audit was conducted every year during this period, and no irregularity was reported. The complainant was assigned the audit for the period 2018 to 2023, yet he examined records of 2003 to 2006 which, according to the learned counsel, was beyond his authority under the Maharashtra Cooperative Societies Act. He further submitted that the audit reports for those years, prepared by then-appointed auditors, had found no misappropriation. The applicant is a senior citizen and deserves protection from arrest.

5. The learned APP opposed the application. She submitted that the applicant was directly involved in preparing bogus fixed deposit receipts dated 22 June 2008 for Rs.3,82,000/-. On the basis of such receipts, a loan of Rs.3 lakh was taken and withdrawn by bearer cheque, even though no such deposit existed in the society's records. Similar fraudulent transactions were done in the names of depositors such as Deepak Amle and Ashok Ingle, who had never made deposits in the society. On the basis of such false securities, loans were disbursed and amounts withdrawn through bearer cheques. The total amount misappropriated in this manner was Rs.44,44,351/-.

6. The learned APP submitted that the audit report has been submitted to the District Deputy Registrar under Section 81(5B) of the Maharashtra Cooperative Societies Act, showing substantial financial loss to the society. Despite being served with notice to appear before the Investigating Officer, the applicant failed to do so. The investigation is still at an early stage, and custodial interrogation of the applicant is necessary to trace the persons who assisted him in committing the offence. His handwriting and signature samples are required for comparison. Considering his past position as Chairman, there is a likelihood that he may influence witnesses, including society staff members.

7. The learned APP referred to the statement of Smt. Sangeeta Pandey, Secretary of the society from 1999 to 2018. She stated that the applicant used to submit names of his relatives as depositors, who never actually visited the society, nor were their addresses furnished. The applicant used to sign bearer cheques and direct the

Secretary to sign for cash withdrawals. After the maturity of deposit receipts, the applicant would sign as the depositor himself. Due to fear of losing her job, she did not report these irregularities.

8. The Clerk of the society also stated under Section 180 of the Bharatiya Nagarik Suraksha Sanhita that the applicant directed him to withdraw Rs.4 lakh through a bearer cheque. The depositor named in the fixed deposit receipt never visited the society. Acting on the applicant's instructions, the Secretary prepared a bearer cheque in the name of one Jayram Pawar on 19 May 2007, which the applicant signed as Chairman and got encashed through Poladpur RDC Bank. The amount withdrawn was allegedly handed over to the applicant.

9. The audit report reveals that the books of account did not contain any entry of the deposits shown in the fixed deposit receipts. It further records that the applicant used Rs.16,50,000/- for his personal benefit, out of which Rs.4 lakh was deposited back on 21 November 2009 and the remaining Rs.12,50,000/- was misappropriated. The applicant, by misusing his position as Chairman, created false deposit receipts and withdrew amounts from the society by bearer cheques. The total misappropriation amounts to Rs.44,44,351/-. The learned APP, therefore, submitted that the applicant is the main beneficiary of the misappropriation and his custodial interrogation is necessary. The prayer for anticipatory bail deserves to be rejected.

10. Having considered the rival submissions and the material placed on record, I am of the opinion that this is not a fit case to grant protection under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The reasons are as follows.

11. The allegations against the applicant disclose large-scale financial misappropriation committed during his tenure as Chairman of the Poladpur Taluka Sarkari Karmachari Sahakari Patsanstha Maryadit. The amount involved, Rs.44,44,351/-, is substantial. The alleged misappropriation was not a single transaction but a recurring pattern of false deposits, bogus loans, and withdrawals through bearer cheques spread over several years. The offence, therefore, reflects a systematic breach of trust and deliberate misuse of position. Economic offences of this nature strike at the foundation of public confidence in cooperative institutions and require strict scrutiny.

12. The prosecution has placed sufficient prima facie material indicating the direct role of the applicant. The audit report conducted under Section 81(5B) of the Maharashtra Cooperative Societies Act specifically refers to bogus fixed deposit receipts, withdrawals through bearer cheques, and absence of any corresponding entries in the society's books of account. The report attributes specific acts of misappropriation to the applicant, including his use of the society's funds for personal benefit. Statements of the Secretary and Clerk of the society corroborate these findings. Both witnesses have stated that the applicant used to sign bearer cheques and withdraw money under fictitious names. These statements, supported by documentary evidence, clearly establish prima facie involvement of the applicant.

13. The defence contention that the complainant exceeded his jurisdiction by verifying records from 2003 to 2006 does not hold merit at this stage. The issue of whether the auditor acted within his authority is a matter of evidence and can be examined during trial. What is relevant for present purposes is that the audit was conducted under statutory powers and has revealed clear financial irregularities. The applicant's conduct, in avoiding appearance before the Investigating Officer despite service of notice, shows reluctance to cooperate with investigation.

14. The allegations involve forgery of deposit receipts, false entries, and withdrawals through bearer cheques. The investigation is at a preliminary stage. Custodial interrogation is necessary to ascertain the full chain of events, to identify who assisted the applicant, and to verify handwriting and signature specimens. The nature of the documents involved requires confrontation of the applicant with records and witnesses. Such interrogation cannot be effectively carried out while granting protection from arrest.

15. The applicant remained Chairman of the society for nearly two decades. Several employees who worked under him are potential witnesses. The prosecution has rightly pointed out that, due to his long association and influence over staff members, there is a strong likelihood of tampering with evidence or influencing witnesses. Grant of anticipatory bail in such circumstances would adversely affect a fair and unhindered investigation.

16. The defence has emphasized that no irregularities were noticed in the previous audits. However, this by itself does not exonerate the applicant. Many financial irregularities come to light only when detailed scrutiny of old records is undertaken. The timing of the audit or discovery of offence cannot be a ground for protection when prima facie material shows embezzlement of public funds.

17. The applicant was occupying a position of trust in a cooperative institution dealing with the funds of public employees. Misuse of such trust for personal enrichment amounts to serious breach of fiduciary duty. The Supreme Court has consistently held that in economic offences involving public institutions, considerations of personal liberty must yield to the need for fair investigation. The magnitude of the offence, the degree of planning, and its impact on the institution justify denial of pre-arrest protection.

18. The applicant's plea of being a senior citizen cannot, by itself, be treated as an exceptional circumstance warranting anticipatory bail. Age cannot shield a person from accountability for offences involving public money. No medical or personal circumstances of extreme hardship are placed on record.

19. In view of the above discussion, the allegations disclose serious misuse of position and deliberate defalcation of society's funds. The investigation is at a nascent stage and requires free access to the applicant for custodial interrogation. Grant of anticipatory bail at this stage would hamper the investigation and prejudice the prosecution.

20. Accordingly, the application seeking pre-arrest bail is rejected.

(AMIT BORKAR, J.)