HIGH COURT OF JUDICATURE AT BOMBAY
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.224 OF 2018

Ram Mahadeo Rode,
Age : 35 years, Occ. Service,
r/o. At post Talkhed,
Tq. and Dist. Beed ..Applicant

Vs.

The State of Maharashtra,
Through Police Inspector,
Kranti Chowk Police Station,
Aurangabad ..Respondent

AND

ANTICIPATORY BAIL APPLICATION NO.230 OF 2018

Ram Mahadeo Rode,
Age : 35 years, Occ. Service,
r/o. At post Talkhed,
Tq. and Dist. Beed ..Applicant

Vs.

The State of Maharashtra,
Through Police Inspector,
Kranti Chowk Police Station,
Aurangabad ..Respondent

Mr.P.D.Bachate, Advocate for applicant

Mr.S.B.Joshi, APP for respondent

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CORAM : SANGITRAO S. PATIL, J.
DATE : APRIL 09, 2018

PER COURT

Heard the learned Counsel for the applicant and the learned APP for the respondent.

2. In both of these crimes, there are common allegations against the present applicant. Therefore, they are being decided by this common order.

3. One Amar Kukreja lodged FIR on 25.12.2017, on the basis of which Crime No.833 of 2017 came to be registered in Kranti Chowk Police Station, Aurangabad, for the offences punishable under Sections 406, 420, 120-B of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ("M.P.I.D. Act", for short). On the basis of the FIR lodged by one Gopal Jaju on 28.12.2017, Crime No.432 of 2017 has been

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registered in Kranti Chowk Police Station, Aurangabad for the offences punishable under Sections 406, 420, 120-B of the Indian Penal Code and under Sections 3, 4 and 5 of M.P.I.D. Act.

4. It is the case of the informant - Amar Kukreja that he deposited the total amount of Rs.20,09,000/- in Shubhkalyan Multi State Co-operative Credit Society Ltd. ("the Society", for short), Branch Gomtesh Market, New Gulmandi Road, Aurangabad, for being paid to various businessmen through demand drafts, as specifically stated in the FIR. However, the said businessmen informed that those demand drafts could not be encashed for want of funds. The same is the case of the informant Gopal Jaju that he deposited the total amount of Rs.19,92,000/- with the Society for being paid to various businessmen through demand drafts, as specifically stated in the FIR. However, the said businessmen informed that the demand drafts could not be encashed. Both the informants then visited the

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branch of the Society and inquired with the Branch Officer namely, Ashish Bajaj, who, in turn, informed that the amounts deposited by them were diverted to the account of the main office of the Society situate in Dilipnagar, Hawargaon, Tq.Kalamb, Dist. Osmanabad, as per the directions of the Chairman and Managing Director namely, Dilip Shankarrao Apet. The informants further came to know after visiting the main office of the Society that the amounts deposited by them were utilised by the said Dilip Apet and other Directors of the Society for their personal purposes and also for the purpose of Shambhu Mahadev Sugar and Allied Industries Ltd. and Pingale Sugar and Agro Products Pvt. Ltd., Sailu. The informants were given assurance that the said amounts would be paid within 2-3 months. However, it was never repaid. It is alleged that the present applicant, who is serving as an Accountant in the sugar factory and one Shivkumar, who was close to Dilip Apet, took back the bounced demand drafts from these informants and

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further arranged a meet between Dilip Apet and the informants. Dilip Apet then executed agreements in favour of the informants and assured to repay the amounts deposited by them. He further issued cheques in favour of the informants in respect of the said amounts. However, both of the cheques were bounced. Both of them tried to contact Dilip Apet, but with no success. Thereafter, they realised that they were cheated and the amounts deposited by them were misappropriated. Therefore, they lodged the reports on the basis of which the above-numbered crimes came to be registered.

5. The learned Counsel for the applicant submits that there is a single sentenced allegation made against the applicant that one Shivkumar and the present applicant took the bounced demand drafts from the informants and further arranged a meeting between Dilip Apet and the present informants. He submits that the applicant is not the beneficiary of the amounts allegedly misappropriated. The applicant is

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not serving in the Society and is serving in the sugar factory. He has no concern with the business of the Society. He has been falsely implicated in this case. He submits that the provisions of M.P.I.D. Act are not applicable to the Society. Therefore, the applicants cannot be connected with the offences under the said Act. He then submits that the other Directors of the Society and the staff members who were serving in that Society, have been granted the relief of pre-arrest bail by this Court. In the circumstances, he prays that the present applicant may be granted the relief of pre-arrest bail.

6. The learned APP strongly opposed the applications. He submits that the applicant has played key-role in the commission of the above-mentioned offences. He is the close aide of Dilip Apet, who is presently absconding. If the applicant is interrogated by the Investigating Officer by taking him into custody, there is possibility of getting a big clue for the purpose of further

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investigation. He pointed out to the statements of certain witnesses, who state that the present applicant was very much involved in the transactions subject matter of the reports. He, therefore, prays that the applications may be rejected.

7. There is no dispute that the Credit Co-operative Society does not come within the definition of "financial establishment", as given under Section 2(d) of the M.P.I.D. Act. Therefore, the offences under Section 3, 4 and 5 of the M.P.I.D. Act, would not be attracted to the facts of the present case.

8. As seen from the reports as well as the papers of investigation, Dilip Apet seems to be the key-person, who, *prima facie*, appears to be responsible for duping the informants. He was the Chairman and the Managing Director of the Society. He has diverted the amounts received from the informants. It seems that he accepted the responsibility to repay those amounts to the

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informants by executing agreements in their favour and also by issuing cheques in their favour. There is nothing in the FIR or the papers of investigation to show that the applicant, who was working simply as an Accountant in the sugar factory, is the actual beneficiary of the amounts subject matter of the reports. Even if it is accepted for a while that the applicant, being under the thumb of Dilip Apet, received back the demand drafts from the informant and further arranged a meeting between Dilip Apet and the informant, that by itself, *prima facie*, would not indicate that he cheated the informants or misappropriated the amounts deposited by them.

9. The employees of the Society have been granted the relief of pre-arrest bail by this Court vide a common order dated 06.03.2018 passed in Anticipatory Bail Application No.119 of 2018 and other companion applications. Since the present applicant was not the servant of the Society and since there is no *prima facie* evidence showing that

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he is the beneficiary of the amounts deposited by the informants, his liberty will have to be protected by granting the relief of pre-arrest bail in his favour. Even on the principle of parity also, he is entitled to get relief of pre-arrest bail.

10. It is made clear that the above observations are *prima facie* in nature and shall not influence any other proceedings arising out of the above-numbered crime.

11. In the result, I pass the following order:-

(A) Criminal Applications are allowed.

(B) In the event of arrest of the applicant in connection with with Crime No.833 of 2017 registered in Kranti Chowk Police Station, Aurangabad for the offences punishable under Sections 406, 420, 120-B of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors

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(in Financial Establishments) Act, 1999 and Crime No.432 of 2017 registered in Kranti Chowk Police Station, Aurangabad for the offences punishable under Sections 406, 420, 120-B of the Indian Penal Code and under Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, he shall be released on his executing bail bonds in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount, on the following conditions :-

(i) that, the applicant shall make himself available for the purpose of investigation as and when called upon by the Investigating Officer under a written intimation or under any permissible electronic mode of communication, until filing of the Charge Sheet.

(ii) The applicant shall not tamper with the prosecution evidence in any manner.

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(C) The applications are accordingly disposed of.

[**SANGITRAO S. PATIL, J.**]

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