IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Bail Appl..No. 324 of 2015

CRIME NO. 34/2015 OF KASARAGOD POLICE STATION, KASARGOD DISTRICT.
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PETITIONER(S)/ACCUSED 1 TO 3:
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1. SASIDHARAN P., SUPERINTENDENT,
   KASARGOD DIST.CO-OPERATIVE BANK LTD.,
   KASARGOD DIST.

2. ARUN B., SENIOR ACCOUNTANT,
   KASARGOD DIST.CO-OPERATIVE BANK LTD.,
   HEAD OFFICE, KASARGOD DIST.

3. AMRITHARAJ, SENIOR ACCOUNTANT,
   KASARGOD DIST. CO-OP BANK LTD.,
   HOSANGADI BRANCH, MANJESHWAR,
   KASARGOD DIST.

BY ADVS.SRI.SURESH KUMAR KODOTH
SRI.K.P.ANTONY BINU

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT.MADHUBEN.M

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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SUNIL THOMAS, J.

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B.A.No.324 of 2015

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Dated this the 14th day of July, 2015

ORDER

This application for bail is filed by accused Nos.1 to 3 in Crime No.34 of 2015 of the Kasaragod Police Station for offences punishable under Sections 120(B), 406, 409, 420, 468, 471 and 477 (A) r/w Sec. 149 of the Indian Penal Code.

2. The allegation of the prosecution is that during the period 27.12.2012 to 30.11.2013, accused 5 to 7 pledged fake gold ornaments and availed 50 different gold loans from the Hosangady branch of a bank, while petitioners were working as the Branch Managers. The fourth accused was the Gold Appraiser who certified the ornaments as genuine. It is alleged that the above accused thereby had caused a liability of about Rupees 1.14 Crores. After this was detected, the bank filed a private complaint before the learned magistrate, who referred the matter to the police under Section 156(3) of the Code of Criminal Procedure. Apprehending arrest, petitioners have approached this Court seeking pre-arrest bail

3. Heard. Examined records.

4. It is seen that the first accused is presently working as Superintendent and second and third accused as Senior Accountant in different branches of the bank. The first accused was the branch manager of Hosangady branch during the period from 01.02.2011 to 09.01.2012, the second accused during the period 08.01.2013 to 24.02.2014 and the third accused during the period 16.07.2012 to 29.09.2014. The fourth accused was the appraiser since 2000. There seems to be no dispute that accused Nos. 5 to 7 had availed 50 different gold loans from the above branch and obtained a loan totaling to 1.14 Crores.

5. The contention of the petitioners herein is that they have not conspired with the remaining accused and that they had only acted in accordance with law and sanctioned gold loan based on the appraisal report given by the fourth accused. It was contended that most of the loan transactions were renewal only. It was further contended that after the above crime was detected, they had moved the authorities seeking a deeper investigation into the entire issue and now due to political reasons, they are sought to be falsely implicated in the crime, along with the remaining accused, who in fact had committed the offences.

6. It is on record that on 24.12.2013, the Regional Manager of the bank conducted a verification and found spurious gold. This was reported to the General Manager. The matter was neither reported to the police nor any action taken thereon. The allegation of the petitioners is that, as a cover up exercise, accused 1 to 3 were called and they were coerced to repay the money. They allege that they were threatened and to discharge the liability, the bank allegedly took an initiative to sanction home loans to the above three accused along with another relative of the other accused on 31.12.2014 and about 75,00,000/- of rupees were repaid. Some of the gold ornaments which were pledged were also taken back.

7. There appears to be materials to show that huge amounts were sanctioned as loan to the above three persons and one another person who is the relative of the remaining accused, on the same day and the amount was remitted towards the loan transaction. The records further reveal that when recovery proceedings were initiated from the salary, they approached this Court filing W.P(C).No.24810 of 2014 challenging the recovery. A copy of the above writ petition is produced as Annexure-2. It appears that in the above writ petition filed on 22.09.2014, they

have sought for a comprehensive investigation into the entire incident alleging irregularities in the entire transaction.

8. It is also seen that the first petitioner herein moved the Chief Judicial Magistrate, Kasaragod in Crime No.19 of 2014 in December, 2014 seeking appropriate action in relation to the entire incident. The second and third petitioners were arrayed as witnesses. The matter was referred to the police and a search was conducted by the police and some of the spurious gold ornaments were recovered.

9. Relying on the above materials, learned counsel for the petitioners vehemently contended that they are absolutely innocent of the crime and now, they are sought to be implicated falsely. It was contended that the accused themselves had sought for a detailed comprehensive investigation. In the private complaint submitted by the bank thereafter, they have produced a list of documents identifying about 50 documents which according to the bank will prove the complicity of all the accused. Hence, even according to the bank, the essential part of evidence to bring home the guilt of the petitioners herein are in the nature of documentary evidence.

10. It is also pertinent to note that petitioners herein moved the Court initially and only thereafter, a private complaint was filed by the bank. It appears that there are two crimes now, one in which petitioners stand as accused along with others and other one initiated at their instance in relation to the same incident. It is also pertinent to note that they have moved the magistrate court and pursuant to the above order, search warrant was issued. It is also on record that loans were sanctioned by the petitioners on the basis of the appraisal report. No doubt the allegation is very serious and requires deeper investigation into the complicity of accused 3 to 7 and whether petitioners have conspired. The main evidence touching the present petitioners are documentary in nature. Further, the petitioners are no longer in this branch now and hence have no access to the original records. In the light of the above facts and the materials made available at present, I feel that custodial interrogation of the accused may not be warranted for the time being. Hence the bail application is allowed subject to the following conditions:

(i) Petitioners shall appear before the Investigating Officer on 23.07.2015 between 10 a.m. and 11 a.m. and shall undergo interrogation. Thereafter, in the event of their arrest, they shall be released on bail on each of the petitioner executing a bond for Rs.75,000/- (Rupees seventy five thousand only) with two sureties each for the like sum each.

(ii) Petitioners shall not interfere in the process of investigation, threaten, coerce or intimidate the witnesses. They shall not leave the State without permission of the Jurisdictional Magistrate.

(iii) Petitioners shall appear before the Investigating Officer as and when called for.

(iv) It is made clear that in the event of more materials being unearthed and complicity of the petitioners herein in the course of investigation, investigating agency will be free to move this Court for appropriate orders.

The application is allowed accordingly.

Sd/-
SUNIL THOMAS
Judge

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