IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

Bail Appl.No. 2439 of 2015
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CRIME NO. 1096/2014 OF KANJAR POLICE STATION, IDUKKI
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PETITIONER(S)/ACCUSED:
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SAJANA A.S., AGED 28 YEARS,
D/O. SUBAIR A.A., MILLENIUM STREET, MANNUTHI P.O.,
THRISSUR.

BY ADVS.SRI.JOY GEORGE
SRI.C.X.ANTONY BENEDICT
SMT.TANYA JOY

RESPONDENT(S)/COMPLAINANT:
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1. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM-682 031.

2. SUB INSPECTOR OF POLICE,
   KANJAAR POLICE STATION, THODUPUZHA,
   IDUKKI DISTRICT - 686 031.

BY PUBLIC PROSECUTOR SRI.C.RASHEED

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

msv/

**RAJA VIJAYARAGHAVAN V, J.**

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**B.A.No.2439 of 2015**

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**Dated this the 17th day of June, 2015**

## ORDER

Petitioner herein is the sole accused in Crime No.1096/2014 of Kanjar Police Station. The said crime has been registered against the petitioner under Sections 420, 409 and S 465 of the Indian Penal Code.

2. The gist of the prosecution case is that, while the petitioner was working as the Manager of Kulamavu branch of Union Bank of India for the period from 28.12.2013 to 07.07.2014, she had siphoned off Rs.2,00,000/- from the dormant savings bank account belonging to one account holder by name Sudha V.A. by illegally activating that account and withdrew funds by using the ATM card. It is further alleged that, in order to recoup that amount, the petitioner has issued two bogus loans of Rs.1,00,000/- each to the dormant account of one Aleykutty and Hamsa and Rs.2,00,000/- has been transferred to the account of Sudha V.A. It is also the case of the prosecution that the petitioner has illegally transferred Rs.19,195/- from the dormant account of Sulochana P.M to the account of one Kela Ramankutty of Kalayanthani branch of the Union Bank and that the petitioner, without

the permission of the Regional Office, pledged her gold ornaments and took agricultural loan in her name for Rs.1,40,000/-. It is further alleged that the petitioner had misused her official status by creating forged documents and has thereby cheated the bank.

3. I have heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

4. The learned counsel would submit that the instant crime was registered much after the alleged incident. It was pointed out that the petitioner was a lower level officer in the bank and she could not have transferred any amount from the Kulamavu branch to the name of another account holder of Kalayanthani branch without the knowledge of the cashier and also the Branch Manager of the said bank. The fact that none of the account holders of the Bank had raised any complaint was also advanced at the stage of arguments .It was also pointed out that she has been targeted because of the fact that she is a rival union member. It was submitted that the petitioner has approached the bank authorities and has undertaken that she is prepared to pay the whole amount which is alleged to have been transferred with lawful interest. It is also argued that the petitioner is recently married and there was no reason to come to a conclusion that she would evade from the process of law. It is submitted that the

petitioner is prepared to co-operate with the investigation and that she would not hamper the investigation process. If is finally submitted that the relief of anticipatory bail be granted to her so as to relieve her from hardship and infamy.

5. The learned Public Prosecutor, on the other hand submitted that though the allegations are grave and requires to be investigated thoroughly, taking note of the facts and circumstances as projected, necessary directions can be issued by safeguarding the interest of the prosecution as well .

6. After hearing the counsel for the petitioner and the learned Public Prosecutor and also taking note of the undertaking made by the learned counsel for the petitioner, the nature of allegations, the gravity of the offence, the status of the petitioner etc., I am of the view that necessary directions can be issued which would safeguard the interest of the prosecution as well.

7. Though the allegation against the petitioner is serious, the same has to be proved in a court of law and at this preliminary stage I find merit in the contention of the petitioner that she has been made a scapegoat in the case. But, at the same time, necessary safeguards are to be put in place to see that the process of the investigation is not thwarted.

8. In the above circumstances, I am of the opinion that conditional relief can be granted to the petitioner by permitting the petitioner to deposit the amount due to the bank together with lawful interest and to obtain a receipt to the effect that all the amount due has been fully and finally settled. This shall be done within a period of 1 week from the date of this order. On full settlement of the amount due to the bank together with interest, the petitioner shall appear before the investigating officer within two weeks from the date of this order for the purpose of interrogation. If the interrogation is not completed on the date of appearance, the petitioner shall appear before the officer as and when directed. After necessary interrogation, the petitioner shall be produced before the learned magistrate having jurisdiction and the learned magistrate on satisfaction that the interrogation of the petitioner is over, shall release the petitioner on bail on appropriate conditions. On the other hand, if the petitioner fails to co-operate with the investigation or if the investigating officer is of the opinion that the detention of the petitioner is necessary for the collection of necessary materials which the accused did not disclose during the interrogation, the said fact can be brought to the notice of the jurisdictional magistrate and the learned jurisdictional magistrate shall be entitled to pass appropriate orders in accordance with law.

In the result, this application for bail is disposed of as follows:

1. The petitioner shall settle the whole amount due to the Union Bank of India, Kulamavu branch together with interest and obtain receipt for the same showing full and final settlement within 1 week from the date of this order.

2. The said receipt showing full and final settlement shall be produced by the petitioner before the investigating officer in charge of Crime No.1096/2014 of Kanjar Police Station within 2 weeks from the date of this order. On such production, the investigating officer shall be permitted to interrogate the petitioner as part of investigation. If the investigation is not over on the date of surrender before the investigating officer, the petitioner shall appear on such other dates as required by the investigating officer in writing.

3. After necessary interrogation, the petitioner shall be produced by the investigating officer before the jurisdictional magistrate having jurisdiction after recording the arrest of the petitioner.

4. If the learned magistrate is satisfied that the interrogation as part of the investigation is over and that there is no necessity for detention of the petitioner in custody, the petitioner shall be released on appropriate conditions to the satisfaction of the learned magistrate.

5. On the other hand, if the petitioner fails to co-operate with

the investigation or if the investigating officer is of the opinion that the detention of the petitioner is necessary for the collection of necessary materials which was concealed by the accused during interrogation, the said fact can be brought to the notice of the jurisdictional magistrate and the learned magistrate shall be entitled to pass appropriate orders on its merit in accordance with law

6. The petitioner shall surrender her passport before the learned Magistrate and in case she is not holding any passport, she shall file an affidavit stating so.

7. She shall not leave India without the previous permission of the jurisdictional court

8. She shall not threaten or attempt to influence the witnesses and shall not get involved in any criminal case while on bail.

9. She shall in no event tamper or attempt to tamper with the evidence nor shall she hamper the investigation.

10. Violation of any of the above conditions will entitle the jurisdictional Court to cancel the bail in accordance with the law.

Sd/-

**RAJA VIJAYARAGHAVAN V, JUDGE.**

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