



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Tenth day of February Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP (MD) No.2149 of 2015

SURESH BABU

... PETITIONER/ACCUSED NO.1

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
KEELAKARAI POLICE STATION, RAMANATHAPURAM DISTRICT,
CRIME NO.7/2015 ... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.AJMAL ASSOCIATES Advocate
For Respondent : M/S.A.P.BALASUBRAMANIAN
Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

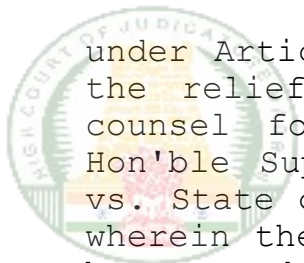
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 409 and 420 IPC in Crime No.7 of 2015 on the file of the respondent police, seeks anticipatory bail.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

3. The case of the prosecution is that this petitioner was working as Sub-Post Master in Keelakarai Sub-Post Office till 2013. It is seen that during his tenure, he has been misappropriating amounts that were being deposited by the poor depositors in their SB accounts. In this fashion, he has misappropriated Rs.1,50,000/-.

4. Learned counsel for the petitioner submits that this petitioner was dismissed from service in the year 2013 itself and he repaid a substantial portion of the amount. But that cannot be a good reason for granting anticipatory bail to this petitioner, who in the position of trust was entrusted with the monetary affairs of the poor account holders, who normally come to Post Offices and maintain SB accounts. Learned counsel for the petitioner further submits that the fundamental rights of the petitioner as enshrined



under Article 21 of the Constitution of India will be impinged, if the relief of anticipatory bail is not granted to him. Learned counsel for the petitioner also relied upon a judgment of the Hon'ble Supreme Court in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra and others, reported in (2011) 1 SCC 694, wherein the Hon'ble Supreme Court held that anticipatory bail could be granted to a person, if there is no possibility of tampering.

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5. On the contrary, the Hon'ble Supreme Court in a recent judgment in Rakesh Baban Borhade vs. State of Maharashtra and another, reported in 2014 (13) Scale 93 has reiterated the parameters for granting anticipatory bail, by referring to earlier cases on the subject. In the said judgment, the Hon'ble Supreme Court has stated that anticipatory bail is not to be granted as a matter of rule, but should be granted only when a special case is made out and the Court is convinced that the accused would not misuse his liberty. Further, Section 438, as amended by Act 25 of 2005, states that the Court would grant or refuse anticipatory bail after taking into consideration the following factors, namely, :-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence.

Therefore, relying upon the recent judgment of the Hon'ble Supreme Court in the case of Rakesh Baban Borhade vs. State of Maharashtra and another (supra), this Court is not inclined to grant anticipatory bail to this petitioner. Hence, the Criminal Original Petition is dismissed.

sd/-

10/02/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT
MADURAI

2. THE INSPECTOR OF POLICE
KEELAKARAI POLICE STATION, RAMANATHAPURAM DISTRICT
RL/3 C- 20/2/2015

ORDER

IN

CRL OP(MD) No.2149 of 2015

Date : 10/02/2015