BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twenty Seventh day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD)Nos.3835 & 4136 of 2015

MANIMEGALAI ..PETITIONER/ACCUSED in Crl.OP(MD)No.3835/2015

C.MAGENDRAN ..PETITIONER/ACCUSED (RANK NOT KNOWN) in Crl.OP(MD)No.4136/2015

Vs.

STATE REP.BY THE INSPECTOR OF POLICE
CENTRAL CRIME BRANCH,
RAMANATHAPURAM.
CR. NO.9/2015. ..RESPONDENT/COMPLAINANT in Crl.OP(MD)No.3835/2015

STATE REP.BY THE INSPECTOR OF POLICE
DISTRCIT CRIME BRANCH,
RAMANATHAPURAM.
CR. NO.9/2015. ..RESPONDENT/COMPLAINANT in Crl.OP(MD)No.4136/2015

For Petitioner : M/S.S.MUNIYANDI Advocate in Crl.OP(MD)No.3835/2015
For Petitioner : M/S.RIGHT LAW ASSOCIATES, Advocate in Crl.OP(MD)No.4136/2015
For Respondent : Mr.A.P.BALASUBRAMANI, Government Advocate (Crl.Side) in both the petitions.

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(b), 467, 468, 465, 406, 409, 420 and 471 IPC in Crime No.9 of 2015 on the file of the respondent police, seek anticipatory bail.

2. Heard the learned counsels for the petitioners and the learned Government Advocate (Crl.Side) appearing for the State.

3. The respondent police have filed a common status report in which they have stated as follows:

> “2. I humbly submit that the prosecution case is that the present Mananger, Sayalkudi Branch, Union Bank of India preferred a complaint stating that the former Manager namely Thiru. Magendran (who is the petitioner herein Crl.O.P.Nos.3835 and 4136 of 2015) sanctioned loan to the tune of Rs.1,31,77,000/- to the Women Self Help Group, he colluded with the leaders of 4 Women Self Help Group leaders namely M.Selvarani W/o.Muthu, Mariya Haster, W/o.Rotoryko, N.Selvarani W/o.Naganathan and Manimegalai W/o.Lingam who were the accused Nos.2 to 5 and also the leaders of the Women Self Help Groups and sanctioned the loan and swindled the amount. Based on the complaint a case was registered in Cr.No.9/2015 Under Section 465, 468, 471, 409, 420, 120(b) IPC on 16.02.2015 and taken up for investigation.

3. I humbly submit that after registering the case the respondent police enquired the defacto complainant and obtained the documents which were produced at the time of sanctioning of the loan i.e., address proof and identification proof and the list of self group members who were obtained the loans. After obtaining the document the respondent Police came to know that 103 loans were sanctioned by the Accused No.1 namely Mahendran (Who is the former Manager in the Bank).

4. I humbly submit that as per the list given by the defacto complainant the respondent police enquired 22 prosecution witnesses (i.e., list of persons who were obtained the loans as per the bank record) and on the enquiry they stated that they did not receive any amount and did not have the knowledge about the loan in their names.

5. I humbly submit that further on perusal and verification of the documents obtained from the Bank came to know that all the documents are bogus one and the accused persons created the documents and used the same for obtaining loan and the signature available in the documents are also bogus one.

6. I humbly submit that all the above facts were fully known to the Accused No.1 who is the former Manager in the Bank (he only sanctioned the loan). Further due investigation the respondent police arrested the Accused No.4 namely N.Selvarani W/o.Naganathan (who is the trustee of Sugapriya Trust) and her confession statement clearly proved the offence committed by the accused persons."

4. Learned counsel for the petitioner in Crl.O.P.(MD) No.3835 of 2015 submitted that the loan was sanctioned to the Self Help Group and not to the petitioner and therefore, the petitioner did not derive any benefit there from.

5. This Court called for the case diary and went through the confession statement of the arrested accused Selvarani. Selvarani, who was arrested by Police on 26.02.2015, has clearly implicated Manimegalai as being part of the conspiracy to defraud the Bank. in the guise of obtaining a loan in the name of their Self Help Group.

6. Learned counsel for Magendran, Manager, Union Bank of India submitted that his client was the Manager of the said Branch from 2008 to 19.04.2013 and after the new Manager, who is the defacto complainant, assumed office, he has been deliberately targeting Magendran and has filed the present complaint for ulterior motives. In support of this contention, learned counsel for the petitioner produced a letter dated 18.02.2015, issued by the Regional Office, Union Bank of India to the defacto complainant in which it is stated as follows:

"Mr.Sesha Mari Kumaran has not obtained prior permission and guidance from the Competent Authority before going for deposition in the DCB, Ramanathapuram.

Mr.Sesha Mari Kumaran acted on his own and he has not taken proper care to prevent the news being published in newspapers, which caused loss of reputation to Bank's name.

Mr.Sesha Mari Kumaran is well aware that such sensitive issues are to be discussed with his immediate higher authorities, keeping utmost secrecy. He should have sent the newspaper clippings with regard to the case to the mail ids Regional Head only who is the competent authority to escalate the matter to higher offices.

Mr.Sesha Mari Kumaran is hereby advised to submit his reply within 3 days, failing which the matter will be dealt with accordingly."

7. On the strength of this communication, learned counsel for the petitioner submitted that the defacto complainant has lodged the present complaint against Magendran even without the permission of the higher officials.

8. I am unable to agree with this submission, because, for setting the criminal law in motion, the complainant need not have to seek permission from his higher Ups. A Branch Manager of the Bank need not have to seek permission from his higher officer, because, the Code of Criminal Procedure does not contemplate such things. By lodging such complaint, even without permission of the higher Ups, the defacto complainant would have at the most violated some departmental rules, but that cannot in any way make the FIR illegal. Even in the communication dated 18.02.2015, the Head Office has taken serious exception to the defacto complainant for not keeping the matter in wraps and allowing the press to get wind of it.

9. On reading of the FIR and the status report, the allegations against both these petitioners are indeed very serious inasmuch as Magendran has disbursed loans indiscriminately to bogus persons and thereby causing loss to the tune of Rs.1,31,75,000/- to the Public Sector Bank. In the status report, it is stated that Magendran is involved in a similar case in Crime No.25 of 2013 in which investigation was completed and a final report has been filed in C.C.No.120 of 2014.

10. Learned counsel for Magendran contended that the case in Crime No.25 of 2013 and the present case are one and the same. Therefore, this Court directed the respondent police to produce a copy of the FIR in Crime No.25 of 2013 and copy of the final report filed in C.C.No.120 of 2014. The respondent police produced the same and this Court perused them and found that the case in Crime No.25 of 2013 relates to the grant of loan by Magendran to one Udayam Trust run by one Mariya, which is also a Self Help Group and the allegations therein relate to a different incident, but whereas allegations in this complaint relate to the Self Help Group run by one Selvarani and hence, both the cases are different.

11. Learned counsel for Magendran contended that Magendran was granted anticipatory bail in respect of the case in Crime No.25 of 2013 and hence, pleaded for anticipatory bail in this case also. Further, he contended that this petitioner is under suspension. In the case in Crime No.25 of 2013, the amount involved was only Rs.10,80,000/-, but whereas in the present case, the amount involved is Rs.1,31,77,000/-, which is indeed too huge.

12. Taking into consideration the serious nature of allegations against these petitioners, this Court is of the view that this is not a fit case to grant anticipatory bail to them. Hence, both the Criminal Original Petition are dismissed.

sd/-
27/03/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO
1 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

2 THE INSPECTOR OF POLICE, CENTRAL CRIME BRANCH, RAMANATHAPURAM.

3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, RAMANATHAPURAM.

ORDER IN
CRL OP(MD)Nos.3835 & 4136 of 2015
Date :27/03/2015

PBK 01/04/2015 ::4P-4C: