THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.12100 of 2016

ORDER:

The petitioner, who is an accused, in Crime No. 25 of 2016 of Eleswaram Police Station, East Godavari District, preferred the present application under Section 438 Cr.P.C., seeking release in the event of his arrest in the above crime registered for the offences punishable under Sections 477-A, 409 and 468 IPC.

2. The case of prosecution is as under :

The incident is said to have taken place in Union Bank of India, Eleswaram Branch, where the petitioner worked as an Accountant from 31.03.2012 to 01.09.2015. After he got himself relieved from the said Branch, on 19.11.2015 one customer came to the Branch and wanted to withdraw some amount from the Account bearing No.201/11098. But she found that the balance was only Rs.1,635/- as against Rs.1,02,701/-. When she checked, it was noticed that money was withdrawn several times through ATM card. It was also informed by her that she was not holding any ATM card. When the Register was verified, it was found that an ATM card was issued and there was a thumb impression as against receipt of the said ATM Card. Enquiries made in the Bank showed that the amount was withdrawn by the petitioner unofficially by transferring the same to other accounts. It was also found that the petitioner herein transferred 47 loan accounts relating to Dwacra group and withdrew an amount of Rs.1,39,828/-. The matter was informed to Regional Office, Visakhapatnam, who sent a team and an interim report on the amounts alleged to have mis-utilized by the petitioner was submitted. Thus, the petitioner is alleged to have misused an amount of Rs.12,85,403/- from 16 savings and deposit accounts, Rs.53,29,000/- from 61 gold loan accounts and Rs.1,39,828/- from 47 Dwacra accounts and in all to a tune of Rs.67,54,231/- was alleged to have been misappropriated. Basing on these allegations, the above report came to be lodged

3. Relying upon the Banking procedure and also the Circulars issued from time to time, the learned counsel for the petitioner mainly submits that it is highly improbable to believe that the petitioner alone would have indulged in fraudulent transfers of the amounts and also for withdrawal of the amounts. It is his case that much prior to the lodging of the report, he himself gave a report to the Assistant General Manager, Regional Office, Visakhapatnam, disclosing the fraud alleged to have been committed by the Branch Manager and also the corrupt practices adopted by him in the Bank. He submits that in the absence of the petitioner in the Branch, the records were manipulated and he has been implicated in this case.

4. However, the learned Additional Public Prosecutor opposed the application contending that the allegations made in the report do make out a *prima facie* case against the petitioner and it is incorrect to say

that the petitioner is not responsible for the alleged transaction. Insofar as the report given by the petitioner concerned, he submits that the instructions received from Zonal Office show that no such report was submitted.

5. At the out set, it is to be noted that the petitioner is now placed under suspension and enquiry against him is going on. Insofar as obtaining gold loans is concerned, he submits that ornaments will be kept in dual custody and the key movement register contains all the entries. Insofar as the jewel loans are concerned, various precautions are mentioned in the manual of the Indian Bank employees' union. The manual also refers to the KYC norms to be followed for proper identification of the customers. Referring to Clause 6, 15 and 20 which indicate the procedure to be followed for granting jewel loans, he submits that the applicant for loan should approach a Branch Manager/Officer incharge of the Jewel loan with his jewels, who will handover the jewel to the appraiser weighment, appraisal and certification in the manner laid down in the manual.

6. He further relies upon Clause 15 to show that the jewel loan control register should be signed by both the custodian of the jewel safe. Further, both of them should be present at the time of lodgment and release. Clause 20 prescribes the Branch Manager to ensure all KYC norms for sanction of jewel loan like obtaining photographs, proper

induction, address proof etc., to be followed. He further relies upon the guidelines laid down for verification of the cash transaction at the end of day and also daily checking of voucher verification as prescribed and thus contends that it is impracticable for a single person to commit the said offence. It is true that the manual prescribes certain procedure and whether the prescribed procedure was followed or whether the petitioner forged and fabricated the documents for committing the offence is a matter which requires thorough investigation. It is too pre-mature to comment on these aspects. But learned counsel for the petitioner heavily relied upon the letter dated 14.09.2015 addressed by him to the Assistant General Manager, Regional Head Office, Visakhapatnam bringing to their notice the corrupt practices in the Branch. Though the learned Additional Public Prosecutor submits that such a report was never received by the Zonal Office but it appears that the said letter was addressed to the Regional Office. The allegation is that the petitioner is alleged to have misappropriated, diverted, misutilized Rs.67 lakhs, but in none of the audit reports such a mistake was pointed out. No complaints, whatsoever were received, from any of the 16 customers though the accounts are alleged to have been tampered with. Truth or otherwise of these allegations definitely requires thorough investigation.

7. Having regard to the fact that the petitioner is placed now under suspension and since the enquiry against him is said to be in the

process and as all the offences are triable by the Court of Magistrate, the petitioner is directed to surrender himself before the concerned court and move an application seeking regular bail after giving prior notice to the Public Prosecutor, in which event the same shall be considered on the same day on such terms as the Court deems fit and proper.

8. With the above direction, the Criminal Petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

Dt:29.09.2016
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