THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.12308 OF 2017

ORDER:

This petition is filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioner-accused for the offences alleged under Sections 420 and 409 IPC.

2. Heard learned counsel for the petitioner-accused, learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioner-accused would submit that the petitioner-accused is an innocent person and falsely implicated in this case. The petitioner-accused has not admitted his guilt. The petitioner-accused also issued legal notice narrating the circumstances under which, he was made to resign and his resignation was obtained forcibly. An amount of Rs.20,00,000/- and odd was paid to the bank. If at all any irregularity or fraud is committed, the same can be determined at the time of trial. It is also contended that the Court of Session dismissed the bail application stating that the petitioner-accused would indulge in tampering the records in the event of granting bail. As the petitioner-accused resigned the services of the bank, there is no possibility of tampering the records and ultimately, prayed to allow the application.

4. On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioner-accused.

5. The material on record reveals that on 12.05.2016, the Deputy CEO/Secretary of Aryapuram Co-

operative Urban Bank Limited, Rajamahendravaram, lodged a report with the police stating that the petitioner-accused while working as Clerk in the said Aryapuram Co-operative Urban Bank Ltd., was dealing with fixed deposits and willfully committed fraud utilizing the money relating to those unmatured fixed deposits and cheated the bank. On 13.04.2016 when TDS of fixed deposits was verified, the fraud came to light. It relates to various accounts in the bank. An amount of Rs.20,72,132/- was mis-used by the petitioner-accused. When the petitioner-accused was confronted with the alleged unlawful withdrawal of an amount of Rs.20,72,132/-, he admitted his guilt on 14.04.2016 and gave his resignation on 16.04.2016 and the resignation was accepted on 18.04.2016.

6. There is also record to show that the mother of the petitioner-accused has paid an amount of Rs.20,00,000/- and above, which alleged to have fraudulently withdrawn by the petitioner-accused. The Clerk dealing with fixed deposits in the bank is supposed to keep the records and the accounts intact. He cannot withdraw any relating to fixed deposits by illegal measures. There are number of documents to show the involvement of the petitioner-accused in the alleged offence. Merely because the amount is paid by the mother of the petitioner-accused and further the petitioner-accused resigned the services are not the determining factors to grant bail under Section 438 Cr.P.C. The requisite condition to grant bail is, if allegations are omnibus and do not make out the case against the persons and the same are coupled with his innocence, then bail under Section 438 Cr.P.C. can be considered. In the instant case, there are specific and grave allegations against the petitioner-accused indulging

in cheating and commission of fraud. The matter requires thorough investigation. Therefore, the petitioner-accused is not entitled for bail under Section 438 Cr.P.C.

7. Accordingly, the Criminal Petition is dismissed.

DR.SHAMEEM AKTHER, J

DATED: 20-12-2017
Hsd