



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

Tuesday, the Fourth day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) Nos.21026 to 21029 of 2018
and
CRL OP (MD) Nos.16883 to 16886 of 2018

CRL OP (MD) Nos.21026 to 21029 of 2018

C.MANIMARAN ... PETITIONER / ACCUSED NO.4
IN CRL OP (MD) NO.21026/2018

P.CHEZHIAN ... PETITIONER/ACCUSED NO.6
IN CRL OP (MD) NO.21027/2018

S.VADAGIRI ... PETITIONER/ACCUSED NO.5
IN CRL OP (MD) NO.21028/2018

N.MANOCHARAN ... PETITIONER/ACCUSED NO.3
IN CRL OP (MD) NO.21029/2018

Vs

THE INSPECTOR OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
TIRUCHIRAPPALLI.
(REF : CR.NO.4/2018)

... RESPONDENT / COMPLAINANT
IN CRL OP (MD) Nos.21026 to 21029 of 2018

For Petitioner : Mr.D.SHANMUGARAJA SETHUPATHI Advocate
IN CRL OP (MD) NO.21026,20127/2018

For Petitioner : Mr.D.SENTHIL Advocate
IN CRL OP (MD) NO.20128,20129/2018

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor
IN CRL OP (MD) Nos.21026 to 21029 of 2018

CRL OP (MD) Nos.16883 to 16886 of 2018

N.MANOCHARAN ... PETITIONER / ACCUSED (RANK NOT KNOWN)
IN CRL OP (MD) No.16883 of 2018



S.VADAGIRI

... PETITIONER / ACCUSED (RANK NOT KNOWN)
IN CRL OP(MD) No.16885 of 2018

C.MANIMARAN

... PETITIONER / ACCUSED (RANK NOT KNOWN)
IN CRL OP(MD) No.16886 of 2018

VS

1 THE SUPERINTENDENT OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
O/O. DIRECTOR GENERAL OF POLICE,
CHENNAI.

2 THE INSPECTOR OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
TRIUCHIRAPPALLI.
(REF.CRIME NO.NOT KNOWN OF 2018)

... RESPONDENT / COMPLAINANT
IN ALL THE PETITIONS

For Petitioner : Mr.D.SHANMUGARAJA SETHUPATHI, Advocate
in all the petitions

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor
in all the petitions

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

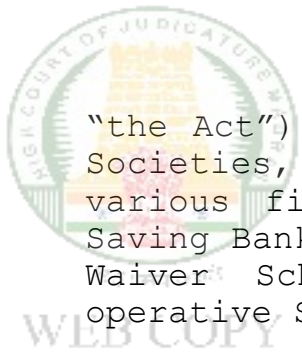
ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 408, 409, 467, 468, 471, 477(A) and 120(B) of IPC., in Crime No.4 of 2018, on the file of the respondent Police, seek anticipatory bail.

2. Since the above Criminal Original Petitions are in respect of same crime number and common facts are involved, they were taken together and a common order is being passed.

3. Before setting out the contentions of the learned counsels, it is quite better that the brief facts, which are necessary for deciding these petitions for anticipatory bail, be narrated initially.

4. The petitioners are A3 to A6 respectively in Crl.O.P(MD) Nos. 21029, 21026, 21028 & 21027 of 2018. An enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, (for brevity,



"the Act") was ordered by the Deputy Registrar of Co-operative Societies, Musiri, on 29.08.2017, for mismanagement with regard to various financial irregularities committed by the petitioners in Saving Bank Accounts, Self-Help Group, Jewel Loan Accounts and Loan Waiver Scheme in R1586, Kottapalayam Primary Agriculture Co-operative Society during the period from 01.04.2016 to 13.11.2017.

5. From the enquiry it was found that a wrongful loss to the tune of Rs.31,83,737/- has been created to the Society, by the petitioners, due to Mismanagement. As per Section 81 Report, other than these petitioners, the President and Secretary of the Society have also been arrayed as accused.

6. As far as these petitioners are concerned, it is found in the enquiry that these petitioners, who are holding different responsible posts, have not inspected, supervised and executed, as per their duties and responsibilities. These persons have to inspect five societies every month and have to submit a report to their superiors within five days of their inspection. Further, they have to safeguard the financial interest of the Central Co-operative Bank, which is their primary duties and responsibilities. These persons during the relevant period though had held responsible and supervisory position have failed to do so. The enquiry had given a categorical findings against these petitioners in this aspect.

7. The contention of the learned counsel appearing for the petitioners is that even according to Section 81 Enquiry Report, which is the basis on which the respondent had registered the case and the proceedings it could be seen that the Petitioner / Manoharan / A3 in CrI.O.P(MD)No.21029 of 2018, was working as Field Manger, Thuraiyur Circle, during the period from 01.04.2016 to 14.12.2016, had not given any report to the Society. He would submit that the petitioner had inspected the Society in his Circle on rotation basis. Likewise the Petitioner / C.Manimaran / A4 in CrI.O.P(MD) No.21026 of 2018, was working as Field Manger (incharge), Thuraiyur Circle, from 15.12.2016, due to work pressure and burden of duty, he could not inspect the Society in detail and during the period when he had visited the Society, the Secretary of the Society was not available for verification. He had informed these facts through Special Report dated 16.09.2017, 19.07.2017, 10.11.2017 and 30.11.2017.

8. With regard to the Petitioner / A5 in CrI.O.P(MD)No.21028 Vedagiri / A5 is concerned, he was working as Supervisor during the period from 27.11.2014 to 03.07.2016 he was Manager, Thuraiyur Region, as per the duties he has to inspect six primary Co-operative Society every month and he has to carryout quarterly and half yearly inspection. He has been carrying the inspection regularly with regard to the Society. But, he has not conducted any inspection due to burden of work, since he has to verify the agree loan, self-help group accounts and jewel loans of eight Societies. Further, he had sent monthly reports regularly to the Central Co-operative Bank.



9. With regard to the Petitioner / A6 in CrI.O.P(MD)No.21027 of 2018, is concerned, he was working as Supervisor, in Thuraiyur Circle, from 04.07.2016, when he had visited the Society, the Secretary of the Society was not available. Therefore, he could not verify the savings account and the registers. He had informed the same to the President of the Society. Despite the same, no action has been taken. He also sent these facts to the Central Bank through the Field Manager, on 19.07.2017, 16.09.2017, 10.11.2017, and 30.11.2017 and in this regard, the petitioner had sent a report to the Principal Revenue Officer, through Field Manager. It could be seen that whenever the Society was to be inspected, the Secretary was not available and shortcomings of the working of the society had been noted and reports sent.

10. A special report has been sent to the Director (Agricultural), District Central Co-operative Bank, Trichy, on 28.07.2017 wherein it has been mentioned that since records and vouchers of the Society has been kept in a bureau under lock and key, the same could not be verified. When the shortcoming was brought to the notice of the Secretary, on verification of the daily wages register, he had admitted to make good the shortcomings, which fact has been informed to the other officials. Hence, the contention of the petitioner is that the Society could not be inspected due to work pressure.

11. It is his further submissions that the Secretary of the Society was not available, when they had gone to the Society for inspection, which fact has been informed to the Principal Accounts Officer and to the District Central Co-operative Bank and for which, no criminality could be attributed. Further, it is the categorical findings of Section 81 Report that they were negligent and have not followed the guidelines of the duties and responsibilities, as supervisory officers. They had committed dereliction of duties. It is also submitted that no surcharge proceedings have been initiated against them. In the charge memo, pursuant to the enquiry report, it has been held that these petitioners had not carried on their inspection and had not discharged their duties, as per the rules and guidelines, which had made the Society to sustain loss to the tune of Rs.31,83,737/-. Further it is submitted that these persons had appeared before the enquiry officer and had submitted their explanation and they are willing to co-operate with the investigation and documents are already available with the department and the respondents, the petitioners have no access to these documents. The offences alleged are document based offences .

12. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that on the opinion given by the Assistant Public Prosecutor CCIW CID., Trichy, based on the enquiry report, the above case came to be registered and these accused had conspired together with the President and Secretary of the said Society and committed the offence of misappropriation and



forgery and had these petitioners carried on their duties and responsibilities, the misappropriation of funds could not have taken place and the Society would not have suffered such huge loss. He would admit that there is no surcharge proceedings initiated against the petitioners so far. These petitioners are still working in the department. He also brought to the notice of this Court that the petitioners earlier had filed anticipatory bail applications in CrI.O.P(MD)Nos.16883 to 16886 of 2018 in Crime No."Not Known" stage and this Court, on 20.09.2018, had granted an interim relief to the petitioners, directing the respondent, 'Not to arrest the petitioners' and still the interim order is in force.

13. I have heard the learned counsels appearing on either side and perused the materials available on record.

14. Considering the above facts and circumstances of the case and also considering the fact that the case is primarily based on Section 81 Enquiry Report and these petitioners have been enquired during enquiry, the findings of the report with regard to petitioners is that of dereliction of duties and responsibilities and not taking proper care and caution in carrying out their work and not taking proper supervisory work assigned to them, petitioners shared any misappropriation amount in the above case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

15. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate, Musiri, on condition that the petitioners shall execute each a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that;

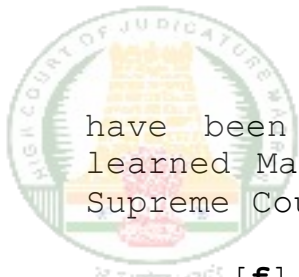
[a] if the petitioners failed to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police, daily at 10.00 a.m., for a period of two weeks and thereafter, on every Saturday & Sunday at 10.00 a.m., for a period of two weeks and thereafter, as and when required, for interrogation

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions



have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

16. In view of the order passed by this Court in the present anticipatory bail applications, the earlier applications filed by the petitioners in Crl.O.P(MD)Nos.16883 to 16886 of 2018 are dismissed, infructuous.

sd/-
04/12/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE,
MUSIRI.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
TRICHIRAPPALLI.
- 3 THE SUPERINTENDENT OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
O/O. DIRECTOR GENERAL OF POLICE,
CHENNAI.
- 4 THE INSPECTOR OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
TIRUCHIRAPPALLI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+4. CC to Mr.D.SENTHIL Advocate SR.No.22632

PS/VR-MMS/SAR-3/11/12/2018/6P/10C

ORDER
IN
CRL OP(MD) Nos.21026 to 21029 of 2018
AND
CRL OP(MD) Nos.16883 to 16886 of 2018
Date :04/12/2018