

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WEDNESDAY, THE THIRD DAY OF JANUARY,
TWO THOUSAND AND EIGHTEEN
: PRESENT:

THE HON'BLE DR JUSTICE **SHAMEEM AKTHER**

CRIMINAL PETITION No. 9653 of 2017

Between:

1. Kurri Punna Reddy, S/o. Malla Reddy (A2)
2. Chinthaguntla Rami Reddy, S/o. Peddi Reddy (A7)
3. Devara Venkateswarlu, S/o. Kotaiah (A8)
4. Repudi Venkateswarlu, S/o. Venkataswamy (A14)
5. Neeli Srirama Murthy, S/o. Vishnu Murthy (A15)
6. B.V.V.S.Prasad, S/o. Venkateswarlu (A18)
7. Y.Koteswara Rao, S/o. Sessaiah (A19)
8. Mannava Krishna Murthy, S/o. Ramakrishnaiah (A20)

Petitioners

(Accused 2,7,8,14,15,18,19 & 20 in Cr.No. 295/2017
of Arundalpet P.S., Guntur Dist)

AND

The State of Andhra Pradesh, rep by its Public Prosecutor, High Court of Judicature at Hyderabad, for the State of Telangana and the State of Andhra Pradesh.

Respondent/Complainant

Petition under Section 438 of Cr.P.C. praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to direct the Station House Officer, Arundalpet Police Station, Guntur District to release the petitioners/accused No. 2,7,8,14,15,18,19 & 20 on bail in the event of their arrest in connection with Crime No. 295/2017 of Arundalpet Police Station, Guntur District.

The Petition coming on for hearing, upon perusing the petition and the grounds filed herein and upon hearing the arguments of Sri N.Pavan Kumar, Advocate for the Petitioners and of the Addl. Public Prosecutor (AP) for the Respondent, the Court made the following

ORDER:

“ This Criminal Petition is filed under Section 438 Cr.P.C. seeking to grant anticipatory bail to the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 in Crime No.295 of 2017 of Arundalpet police station, Guntur registered for the offences punishable under Sections 420, 408, 409, 120B read with IPC, 79 (1) (f) and 79A (1) (c) (2) of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, ‘the Act, 1964’).

2. Heard the learned counsel for the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 and the learned Additional Public Prosecutor appearing for respondent-State. Perused the material available on record.

3. The learned counsel for the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 would submit that the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 are innocent persons and falsely implicated in this case; that no *ex gratia* amount was paid to the employees without there being a resolution; that all the appointments were made in tune with the guidelines and procedure established; that the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 did not indulge in any malpractices; that they have not caused any loss to the Bank and ultimately, he prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State opposed the grant of bail to the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 under Section 438 Cr.P.C. and contended that the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 along with other accused, while discharging their duties as members of the Managing Committee/employees of the Bank, passed resolutions and made payment of Rs.41,30,463/- towards *ex gratia* to the employees of the Bank without any authority and against the bye-laws of the Bank and service conditions of the employees, and ultimately prayed to dismiss the application.

5. In view of the contentions put forth by both sides, the point for determination is whether the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 can be granted bail under Section 438 Cr.P.C.?

6. The material placed on record reveals that on 06.09.2017, the District Co-operative Officer, Guntur lodged a report to police stating that an enquiry under Section 51 of the Act, 1964 was conducted by the Joint Collector, Guntur with regard to certain irregularities alleged in the Guntur District Co-operative Central Bank Limited, Guntur (for short, 'GDCC Bank') and a report dated 29.03.2017 was submitted by him noticing certain irregularities and stating that the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 were working as Committee Members/Bank employees and while discharging their duties, passed a Resolution No.168, dated 30.10.2012 for illegal payment of Rs.41,30,463/- towards *ex gratia* to the employees of the Bank without any enabling Regulation. As per the directions of the District Collector, Guntur, this crime is registered against A.1 to A.20 and under investigation.

7. The petitioners denied the allegations and contended that none of the penal provisions mentioned in the First Information Report is applicable to the instant case, and that they did not commit any offence and they are wrongly arrayed as accused in the crime. It is their further contention that omnibus accusations are leveled against them only on the ground that they were members of the Managing Committee, and that they are unaware of the irregularities and that without proper verification of the records, a false report is lodged in this case.

8. The material on record reveals that during the Centenary Celebrations of the Bank, Union of the Bank requested the Managing Committee for grant of *ex gratia* for rendering valuable services and as such budget allocations were made. The resolutions passed by the Managing Committee are said to be in accordance with law and as per the guidelines issued by the NABARD. A decision has been taken that the District Level Co-operative Banks where the turn over is Rs.1000.00 crores and above are designated as Autonomous Body and that the Bank shall take all decisions independently. The decisions taken by the Managing Committee are ratified subsequently by the General Body in its meeting held on 12.05.2017 vide Resolution No.14. As per the information furnished by the officials of the GDCC Bank as well as higher officials of the Co-operative Department, the Managing Committee said to have taken the just decisions. If the decision taken by the Managing Committee is not in consonance with the Rules, the Chief Executive Officer concerned should not execute such decisions and he has to refer it to the Registrar appointed under the Act, 1964 for determination. Thereafter, he has to execute the decision of the Registrar.

9. In the instant case, the Managing Committee members are neither entrusted with any amount nor distributed any *ex gratia* to any of the employees of the Bank. The contention of the Managing Committee is that it took the decision in accordance with law as per the guidelines issued by the NABARD. If at all any irregularities are there, the higher officials of the GDCC Bank as well as the Chairman of the Managing Committee, who has over-all supervision, are required to answer the allegations. The Managing Committee members have only participated in the meetings. The petitioners herein are members of the Managing Committee at the relevant point of time. Their role is limited either to agree or disagree with the resolutions proposed in the meeting.

10. There is no dispute that the Managing Committee adopted Resolution No.168, dated 30.10.2012 for payment of *ex gratia* to the employees of the Bank. They have competence to do so or not, is required to be examined. Further, if the resolution is not in tune with the Regulations, the Chief Executive Officer would have deferred implementation of the Resolution No.168, dated 30.10.2012. Further, there are no allegations against these petitioners indulging in irregularities of utilizing money amounting to Rs.41,30,463/- which is said to have been paid to the employees of the Bank as *ex gratia*. The subject matter relates to the year 2012. The petitioners-A.2, A.7, A.8, A.15, A.18, A.19 and A.20 are senior citizens. Under these circumstances, the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 can be enlarged on bail under Section 438 Cr.P.C.

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11. In the result, the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 are directed to surrender before the Station House Officer, Arundalpet Police Station within 15 days from the date of this order. On such surrender, the said S.H.O. shall release the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 on bail, on each of them executing a personal bond for Rs.10,000/- (Rupees ten thousand only) with two sureties each for the like sum to his satisfaction. On release, the petitioners-A.2, A.7, A.8, A.14, A.15, A.18, A.19 and A.20 shall abide by the conditions mentioned under Section 438 (2) Cr.P.C. They shall co-operate with the Investigating Officer.

12. Accordingly, the Criminal Petition is allowed.”

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The III Additional Sessions Judge, Guntur.
2. The SHO, Arundalpet Police Station, Guntur District.
3. Two CCs to the Public Prosecutor (AP), High Court, Hyd(OUT)
4. One CC to Sri N.Pavan Kumar, Advocate(OPUC)
5. One spare copy.

SAH



HIGH COURT

Dr.SAJ

DATED: 03-01-2018

ORDER

CRL.P.NO. 9653 OF 2017

ANTICIPATORY BAIL



**DRAFTED BY: SAH
APPROVED BY:
DRAFTED ON: 03-01-2018**

HIGH COURT

Dr.SAJ



DATED: 03-01-2018

ORDER

CRL.P.NO. 9653 OF 2017

ANTICIPATORY BAIL