

**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. 9655 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 (A9)
4. Repudi Venkateswarlu, S/o. Venkataswamy (A18)
5. Neeli Srirama Murthy, S/o. Vishnu Murthy (A19)

Petitioners

(Accused 1,7,9,18 & 19 in Cr.No. 294/2017
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. 2,7,9,18 & 19 on bail in the event of their arrest in connection with Crime No. 294/2017 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.9, A.18 and A.19 in Crime No.294 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.9, A.18 and A.19 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.9, A.18 and A.19 would submit that the petitioners-A.2, A.7, A.9, A.18 and A.19 are innocent persons and falsely implicated in this case; that no security personnel were engaged in the Bank in violation of the procedure and without budget allocation for the period from 01.12.2010 to 30.11.2012; that the details of the security persons are available in the banks concerned; that appointments were made and wages were given as per the Regulations and there are no irregularities; that the petitioners-A.2, A.7, A.9, A.18 and A.19 would co-operate with the investigation and abide by the conditions of bail, 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.9, A.18 and A.19 under Section 438 Cr.P.C.

5. In view of the contentions put forth by both sides, the point for determination is whether the petitioners-A.2, A.7, A.9, A.18 and A.19 can be granted bail under Section 438 Cr.P.C.?

6. The material placed on record reveals that the Joint Collector, Guntur conducted an enquiry under Section 51 of the Act, 1964 and submitted a report dated 29.03.2017 stating that the petitioners-A.2, A.7, A.9, A.18 and A.19 & others, who are Ex-President, President, Managing Committee Members and the then Chief Executive Officer, of the Guntur District Co-operative Central Bank Limited, Guntur (for short, 'GDCC Bank'), acted as per their whims and fancies during the period from 01.12.2010 to 30.11.2012 in respect of engaging security guards in violation of the procedure to be adopted and without budget allocation in the General Body Meetings of the Bank. It is also stated in the report that the names of security personnel and attendance extracts are not available, and that the petitioners-A.2, A.7, A.9, A.18 and A.19 embezzled funds of the Bank to the tune of Rs.77,29,091/- causing loss to the Bank.

7. As per the guidelines of NABARD, services like engaging security guards can be availed by outsourcing. Accordingly, as per the Rule position, the Managing Committee accepted the appointment of security personnel by way of outsourcing. The General Body accepted the proposal of the Managing Committee, and the then Chief Executive Officer of the GDCC Bank entered into an agreement with M/s. New Star Security Services for providing security services, and the petitioners-A.2, A.7, A.9, A.18 and A.19 are neither parties to the said agreement nor they have any role in selecting the security agency. The officials of the Bank, who took the decision, had executed it, the petitioners-A.2, A.7, A.9, A.18 and A.19, who are members of the Managing Committee, cannot be found fault with. The General Body Meeting of the GDCC Bank held on 12.05.2017, approved and accepted the allocation of the budget to the security services vide agenda and resolution No.17. Therefore, it cannot be said that the Managing Committee violated the procedure. It is for the officials of the Bank to maintain records, etc. relating to the engagement of services of security personnel. The petitioners, who are members of the Managing Committee, cannot be faulted with, for not maintaining the relevant records as it is the duty of the officials to maintain the records. In Vigilance report No.02 (C.No.785/V&E/D2/2014), dated 07.01.2017, it is observed that for security reasons, the Management had taken the decision to appoint security guards and the allegations are not proved.

8. In the course of submissions made on behalf of the petitioners-A.2, A.7, A.9, A.18 and A.19, Rules and Regulations relating to the functioning of the Co-operative Banks, powers of the committee and the office bearers, etc. are brought to the notice of this Court wherein it is demonstrated that the General Body has power to accept the proposal of appointment of security personnel in the Bank. Resolution No.17 passed in General Body Meeting of the Bank supports the case of the petitioners-A.2, A.7, A.9, A.18 and A.19. In the instant case, the Managing Committee accepted the proposal of appointing the security personnel. Therefore, the petitioners-A.2, A.7, A.9, A.18 and A.19, cannot be found fault with. The transaction relates to the year 2012. Petitioners-A.2, A.7, A.9 and A.19 are senior citizens. They demitted their office long back. Any opinion or finding made out in this order would not have any bearing. Truth or otherwise of the allegations can only be determined after due trial in accordance with the procedure established. Under these circumstances, the petitioners-A.2, A.7, A.9, A.18 and A.19 can be enlarged on bail under Section 438 Cr.P.C.

9. In the result, the petitioners-A.2, A.7, A.9, A.18 and A.19 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.9, A.18 and A.19 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.9, A.18 and A.19 shall abide by the conditions mentioned under Section 438 (2) Cr.P.C. They shall co-operate with the Investigating Officer.

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10. **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. 9655 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. 9655 OF 2017

ANTICIPATORY BAIL