

**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
CRL. P. NOS:9652 & 10721 of 2017

CRL.P. NO. 9652 OF 2017:

Between:

- 1 Kurri Punna Reddy S/o. Malla Reddy, (A-2)
- 2 Chinthaguntla Rami Reddy S/o. Peddi Reddy, (A-7)
- 3 Devara Venkateswarlu S/o. Kotaiah, (A-9)

..... Petitioners/Accused No. 2, 7 & 9

AND

The State of Andhra Pradesh, rep. by 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 petition and the grounds filed herein, the High Court may be pleased to direct the Station House Officer, Arundalpet Police Station, Guntur District, to release the petitioner/accused No.2, 7 and 9 on bail in the event of their arrest in connection with Crime No. 296/2017 of Arundalpet Police Station, Guntur District;

Counsel for the Petitioners : SRI N.PAVAN KUMAR

Counsel for the Respondent : ADDL. PUBLIC PROSECUTOR (AP)

CRL.P. NO. 10721 OF 2017:

Between:

1. Sri Pinnaka Sesha Bhanu Rao S/o Pitchaiah (A-22)
2. P.V. Prasad S/o Siva Rama Krishnaiah (A-21)
3. Potharlanka Pulla Rao S/o Venkateshwarlu (A-23)

..... Petitioners/Accused No. 22, 21 & 23

AND

The State of Andhra Pradesh, rep. by Public Prosecutor, High Court Buildings, Hyderabad.

.....Respondent

Petition under Section 438 of Cr.P.C., praying that in the circumstances stated in the petition and the grounds filed herein, the High Court may be pleased to enlarge the petitioners/Accused Nos. 21, 22 and 23 on bail in Crime No. 296 of 2017, dated 7-9-2017 on the file of Arundalpet Police Station, Guntur Urban, Guntur District.

Counsel for the Petitioners : SRI BADRI V. REDDY

Counsel for the Respondent : ADDL. PUBLIC PROSECUTOR (AP)

The Court made the following;

COMMON ORDER:

“These Criminal Petitions are filed under Section 438 Cr.P.C. seeking to grant anticipatory bail to the petitioners therein, in Crime No.296 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'). The petitioners in Criminal Petition No.9652 of 2017 are A.2, A.7 and A.9, and the petitioners in Criminal Petition No.10721 of 2017 are A.21, A.22 and A.23, in the said crime.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for respondent-State. Perused the material available on record.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and falsely implicated in this case; that the petitioners-A.2, A.7 and A.9 are members of the Managing Committee, and the petitioners-A.21 to A.23 are employees, of the Bank, and they are not responsible for the offences alleged; that they have not misused the funds allotted for the study tour programme; that the petitioners 21 to 23 and others had gone to the study tour as per the Regulations and submitted relevant reports; that without an opportunity to the petitioners to put forth their case before the Enquiry Officer, the present report is lodged basing on the enquiry report of the Joint Collector; that the petitioners have permanent residences and they are ready to abide by any conditions and ready to prove their innocence at the time of trial, 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 under Section 438 Cr.P.C. and contended that the petitioners along with other accused, misused funds of the Bank to a tune of Rs.7,17,716/- during the period from 17.07.2010 to 26.07.2010 under the guise of study tour; that the enquiry conducted by the Joint Collector under Section 51 of the Act, 1964 revealed the same and hence, they are not entitled to bail under Section 438 Cr.P.C., 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.9 and A.21 to 23 can be granted bail under Section 438 Cr.P.C.?

6. The Joint Collector, Guntur was authorized to conduct enquiry under Section 51 of the Act, 1964 as per the proceedings Rc. No.19065/2013/CR2, dated 29.07.2015 of the Registrar of Co-operative Societies, Andhra Pradesh. Accordingly, the Joint Collector conducted enquiry and submitted report dated 29.03.2017 in which it came to light that the petitioners-A.2, A.7, A.9 and 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'), misused funds of the Bank to a tune of Rs.7,17,716/- during the period from 17.07.2010 to 26.07.2010 under the guise of study tour without any provision/legal

sanctity and contrary to Bye-law No.19 of the Registered Bye-Laws of the Bank, embezzled the funds of the Bank, caused loss to the Bank and cheated the Bank. It is also alleged that the petitioners and other accused in this crime, under the guise of study tours, visited different temples and they did not visit the banks to know the functioning of those banks, and hence, they are liable for the punishment for the offences alleged.

7. The contention of the petitioners is that they are respectable persons in the society. Petitioners/A.21 to A.23 are employees of the GDCC Bank and petitioners/A.2, A.7 and A.9 were members of the Managing Committee of the Bank for some time. It is their further contention that they have not misappropriated or misused any amount as alleged by the prosecution. It is their contention that the allegations are made against them without proper verification.

8. It is submitted on behalf of the petitioners-A.2, A.7 and A.9 that they are roped into this case stating that they were members of the Managing Committee, but the decisions taken by the Managing Committee were in accordance with law and as per the NABARD Rules. 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 by the General Body of the Bank. It is their contention that the enquiry of the Joint Collector was conducted behind their back without their knowledge, and that they have not been given any opportunity to explain the circumstances appearing against them. It is submitted on behalf of the petitioners-A.21 to A.23 that these petitioners, being the employees of the Bank, followed the orders of the higher authorities i.e. Managing Committee of the Bank, which sanctioned study tour, and carried out the subject study tour. It is their contention that they have no *mens rea* and the present criminal case is foisted against them due to political differences between the Ex-Managing Committee members and others, and they were made scapegoats. It is their contention that after completion of the study tour, they submitted study tour reports, which are available with the authorities concerned, and that they have not visited any temples as contended by the prosecution.

9. In the course of submissions made on behalf of the petitioners, 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 to show that the GDCC Bank Limited is an Autonomous Body and has powers to sanction study tours and there is nothing wrong on the part of the General Body to sanction study tours. As per the record, petitioners-A.2, A.7 and A.9 did not participate in the enquiry conducted under Section 51 of the Act, 1964 by the Joint Collector. They did

not have an opportunity to substantiate their defence before the Enquiry Officer. The material placed on record discloses that the petitioners-A.2, A.7 and A.9 are senior citizens and they are no more members of the Managing Committee of the GDCC Bank, Guntur. All the petitioners have got their permanent residences at various places in Guntur District. It appears they have landed property to offer adequate security. The submissions made on behalf of the petitioners cannot be brushed aside. Any opinion or finding made out in this order would not have any bearing. If there is misuse of funds belonging to the GDCC Bank, Guntur to a tune of Rs.7,17,716/- by the petitioners herein and the other accused in the crime, it is required to be established as per the procedure established under law. The competency of the General Body and the Managing Committee to sanction the study tour in question and whether there was any *mala fide*/fraud on the part of the members concerned, can also be established only after due trial. If there was mismanagement and the gravity of the offence is low, that can only be proceeded in accordance with the service rules of the employees of the subject Bank. The subject matter relates to the year 2010. Under these circumstances, the petitioners can be enlarged on bail under Section 438 Cr.P.C. on certain conditions.

10. In the result, the petitioners-A.2, A.7, A.9 and A.21 to A.23 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 and A.21 to A.23 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 and A.21 to A.23 shall abide by the conditions mentioned under Section 438 (2) Cr.P.C. They shall co-operate with the Investigating Officer.

11. Accordingly, the Criminal Petitions are allowed.”

ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The II Additional Sessions Judge, Guntur
2. The Station House officer, Arundalpet Police Station, Guntur Urban, Guntur District.
3. Two CCs to Public Prosecutor (AP), High Court of Judicature, at Hyderabad (OUT)
4. One CC to Sri N.Pavan Kumar, Advocate (OPUC)
5. One CC to Sri Badri V.Reddi, Advocate (OPUC)
6. One Spare Copy

HIGH COURT

**AB
DRAFTED ON 4-1-2018**

DR.SA,J

DATE: 3-1-2018



ORDER

CRL.P. NOS. 9652 & 10721 OF 2017

DIRECTION