



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

Tuesday, the Twenty Second day of January Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.334 and 86 of 2019

CRL OP(MD)No.334/2019:

1 R.SALAISUNDARAM
2 P.VASAN
3 K.BHOOPATHI
4 A.PITCHAI
5 A.RAJENDRAN

... PETITIONERS/ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
LALGUDI POLICE STATION,
TRICHY DISTRICT
IN CRIME NO.603/2018

... RESPONDENT/COMPLAINANT

CRL OP(MD)No.86/2019:

1 D.GOWRI
2 L.HAREANEA
3 A.INDIRA

... PETITIONERS/
(**) ACCUSED RANK NO.5,4,8

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
LALGUDI POLICE STATION,
TRICHY DISTRICT
(*) IN CRIME NO.603/2018

... RESPONDENT/COMPLAINANT

(*) (**) AMENDED AS PER THE ORDER OF HON'BLE COURT MADE IN
CRL MP(MD)No.233 OF 2019 IN CRL OP(MD)No.86/2019 VIDE
ORDER DATED 09.01.2019 BY MNKJ

For Petitioners : MR.A.SHEIK NASURDEEN, Advocate
IN BOTH THE PETITIONS

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)
IN BOTH THE PETITIONS



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

ORDER : The Court Made the following order :-

In CrI.O.P.(MD) No.334 of 2019, the first petitioner is A-1, second petitioner is A-2, third petitioner is A-3, fourth petitioner is A-6 and the fifth petitioner is A-7. Likewise, in CrI.O.P.(MD) No.86 of 2019, the first petitioner is A-5, second petitioner is A-4 and the third petitioner is A-8.

2. The petitioner R.Salaisundaram is the erstwhile President of Kattoor Primary Agricultural Cooperative Credit Society, Kattoor, Tiruchirappalli and the 2nd petitioner/ P.Vasan is the Vice President and other petitioners viz., K.Bhoopathi, A.Pitchai, A. Rajendran, D.Gowri, L.Hareanea and A.Indira are all its Directors, totally there are 11 Directors in the Society who opted the President and Vice President.

3. The petitioners herein are the President and Vice President. Three Directors are not shown as accused in the F.I.R. The complaint came to be launched by one Chitra, who is the Deputy Registrar of Cooperative Societies, Lalgudi Circle, Trichy to the Superintendant of Police, which has been forwarded to the respondent. As per the complaint, the erstwhile executive President and the executive Committee members have committed certain defalcations, dereliction of duty with regard to the operation of funds of the Society for which a preliminary report dated 14.12.2018 had been forwarded. As per the report, this Society was functioning in the Lalgudi area. The President and other Directors had committed fraud in issuance of agricultural loan and jewel loan from the Society funds and on inspection, it was found that during the period of the petitioners as Directors, 32 loan applications have been granted without the knowledge and permission of the loanee and thereby an amount of Rs.32,31,720/- (Rupees Thirty Two Lakhs Thirty One Thousand Seven Hundred and Twenty only) as loan has been caused on the Society. Further, enquiry under Section 81 of the Tamil Nadu Cooperative Societies has been initiated and the enquiry is under progress. Receiving this report, the respondent police has registered the case against the petitioners.

4. The contention of the petitioners is that the petitioners Salaisundaram, former President of the Society was again elected as Director in the subsequent election which was conducted on 23.04.2018 and results were declared on 11.08.2018. On 11.08.2018, there was election for the post of President and Vice President. The said Salaisundaram was not elected on 11.08.2018 as President. Sensing some fraud in the election and challenging the same, Salaisundaram has filed a writ petition in W.P.No.17978 of 2018 and this Court by order dated 14.08.2018 had directed Salaiasundaram to approach the Special Committee constituted for election cases of the



Cooperative Societies, wherein the writ petition was disposed with a direction that the petitioners should seek remedy under Section 90 of the Tamil Nadu Cooperatives Act.

5. Learned counsel for the petitioners would content that the petitioners, to be removed from the post of Directors, the entire case has been fabricated against the petitioner and to restrain other Directors who are in support of the petitioner Salaisundaram. Further, it is strange to find without even getting the 81 enquiry report, normally which is the basis for launching prosecution under Cooperative Societies Act and for registering criminal cases. In the above case, 81 enquiry is still pending. The case has been registered in a hurried manner to facilitate the person in power to occupy the post of President of the Society.

6. The learned counsel for the *de facto* complainant submits that a person by name Shobana has been elected in a democratic manner and in order to quash the election of Shobana, the petitioners herein are making false allegation. In fact, the present President Shobana is finding it very difficult to run the Cooperative Societies and to carry on with the routine work, since many of the loanee, 32 persons who have lost their money could not get fresh loans and delay day in and day out coming and questioning her. Further, there were lot of agitations and news published in the newspapers and other media damaging the image of the Society, She is unable to function effectively as President and opposed that Anticipatory Bail should not be granted to them.

7. The Government Advocate submits that on the complaint of the Deputy Registrar of Cooperative Societies, the investigation has commenced and documents have been received from the Society. Further, the investigation so far reveals that certain agricultural loans have been granted in the name of a person without his knowledge in connivance with the V.A.O. The computerised chitta and adangal has been used for the same and it is found that it is used to facilitate the petitioners. Further thorough investigation would only reveal the role played by these petitioners in causing the loss to the funds of the Society. The custodial interrogation of the petitioner is necessary and therefore, he opposed bail petition vehemently.

8. Considering the rival submissions and for the reasons afore stated, this Court is inclined to grant Anticipatory Bail to the petitioners. Further, the case is one of document based offences and now, documents are with the Society and with the Cooperative Department for which the petitioners have no access to it.

9. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Lalgudi, Trichy District on condition that each of the petitioners shall execute 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 said Magistrate, on further conditions that:

[a] if the petitioners fail 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 10:30 a.m for a period of two weeks** and then, 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 petitioner 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]**.

sd/-
22/01/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE, LALGUDI, TRICHY DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT
- 3 THE INSPECTOR OF POLICE,
LALGUDI POLICE STATION, TRICHY DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2. CC to MR.A.SHEIK NASURDEEN, Advocate SR.No.1193, 509

ORDER IN
CRL OP(MD) Nos.334 & 86 of 2019
Date :22/01/2019

STS