



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

Tuesday, the Twenty Ninth day of January Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.21685,21773 & 21809 of 2018

1 M.GANESHKUMAR

2 S.UMA

3 S.VIJAYA

... PETITIONERS / ACCUSED RANK NOT KNOWN
IN CRL OP(MD)No.21685 OF 2018

M.RAMALINGAM

... PETITIONER / ACCUSED
RANK NOT KNOWN
IN CRL OP(MD)No.21773 OF 2018

S.SUDALAMANI

... PETITIONER/ UNNAMED ACCUSED
IN CRL OP(MD)No.21809 OF 2018

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THOOTHUKUDI NORTH POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO.477/2018

... RESPONDENT / COMPLAINANT
IN ALL PETITIONS

For Petitioner : MR.N.ANANTHAPADMANABHAN
IN CRL OP(MD)No.21685 OF 2018

: Mr.T.LAJAPATHI ROY, Advocate
IN CRL OP(MD)No.21773 OF 2018

: Mr.J.SENTHIL KUMARAI AH, Advocate
IN CRL OP(MD)No.21809 OF 2018

For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)
IN ALL PETITIONS



ORDER : The Court Made the following order :-

The petitioners, who are A5, A6, A3, A2 and A4 respectively, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 408, 420, 465, 468, 471, 477(A), 381 of IPC., in Crime No.477 of 2018, on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution is that one Shanmugasundaram, who was working as jewel loan appraiser in Canara Bank, Mattakadai Branch from 17.07.2017 and he was in charge of valuing the jewel articles that are placed with the branch as security for loan borrowed by the customers. On 16.11.2018, the Divisional Manager from Madurai Circle made a surprise check at the Branch and at his request, the officers of Mattakadai Branch started to verify the pledged articles kept in the safe lockers, on 17.11.2018. The Branch Manager had identified that some of the jewel pockets kept in the locker were missing and number of pockets did not tally with the actual record. An enquiry was conducted on 19.11.2018 and on 20.11.2018 by the Deputy General manager and Senior Officers of the Bank and came to know that the fraud has been committed on a large scale, causing loss to the Bank, for a tune of Rs.1,02,29,311/-. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the 1st petitioner /A3 is the Assistant Manager; the 2nd petitioner/A2 is the Branch Manager and the 3rd petitioner/A4 is the Probation Officer of the the Canara Bank, Mattakadai Branch, Thoothukudi District in CrI.O.P(MD)No.21685 of 2018; the petitioner in CrI.O.P9(MD)No.21773 is the Officer / A6 and the Petitioner in CrI.O.P(MD)No.21809 of 2018 / A5 the Officer of the Bank. He would further submit that one Shanmugasundaram / A1 was working as Jewel Loan Appraiser in Canara Bank from 17.07.2017 and he was incharge of valuing of jewel articles that placed with the branch, as security, for the loan borrowed by the customers and the purpose of appointing the Appraiser is only to ensure the purity of gold articles and its value, which are brought by the customers, for pledging. The employees of the bank do not know about the procedures for verifying the purity of the gold. Therefore, the post of Appraiser was created and only goldsmith are appointed in the said post. On 16.11.2018, the Divisional Manager from Madurai Circle, made a surprise visit and started to verify the jewels On 18.11.2018 it was found that malpractice has been carried out by the appraiser and the same was intimated to the Divisional Manager. An enquiry was conducted on 19.11.2018 and on 20.11.2018 by the Deputy General Manager and Senior Officer of the Branch. During the enquiry, the appraiser Shanmugasundaram admitted to have committed the fraud with the help of his relative and friends and had given a letter admitting his fraud and also promising to restore the value of the jewels immediately, but failed to do so, as promised. Thereafter, the Divisional Manager, lodged a complaint to the Superintendent of



Police.

4. The above FIR came to be registered on 26.11.2018 and the said Shunmugasundaram / Appraiser / A1 had given a detailed explanation how the 51 items of jewels have been over estimated and valued and in whose name he had created the pledge and also the money received through them. He had misappropriated around Rs.90,00,000/- and he had also categorically stated that nobody in the Bank had knowledge or whatsoever about the fraud committed by him. Further, on 25.11.2018, after complete assessment he had again given an admission letter that he is the only person with his relatives and others, who had committed the fraud and other officers of the Bank are no way involved in the commission of offence. Further, A1 had paid around Rs.58 lakhs to the Bank and the balance amount, he had promised to make good. In the meanwhile, A1 was arrested on 05.12.2018. He also submitted that the Bank conducted internal audit and inspection have been carried out and had come to a conclusion that the officers had shown lack of vigilance in duty and amounting to dereliction of duty and they were not vigilant in supervising the work done by the appraiser. Further, the petitioners name does not find place in the FIR. The complaint has been lodged by nonelse than Senior Divisional Manager of Canara Bank. The petitioners further submitted that due to the above case, charge memo has been issued and the petitioners have been placed under suspension. The above offences are documents based one, which are available with the Bank. The petitioners have no access to the same and custodial interrogation in this case is not necessary as regards the petitioners.

5. The learned Government Advocate (crl.side) submits that a case has been registered against the Appraiser and the petitioners. Appraiser Shanmugasundarm was arrested on 05.12.2018 and he had given a confession that since 17.07.2018, he joined as gold appraiser, by using the name of 22 persons, among 73 jewel loans advance and also 51 bags are missing from the locker out of 73 and he had destroyed 51 bags related documents with an intention to cheat the bank and he had not made any statement against the petitioners. Further, the entire happenings had taken place due to lack of supervision of the responsible officers, who are the petitioners herein.

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

7. Considering the above facts and circumstances of the case and rival submissions and the findings of the Inspection Team that there are lack of supervision, not vigilant in supervising the work by the petitioners amounting to dereliction of duty, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions;-.

<https://hcservices.ecourts.gov.in/hcservices/>

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the



learned Judicial Magistrate No.III, Thoothukudi, on condition that 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;

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

[b] the petitioners shall report before the respondent police, 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.

sd/-

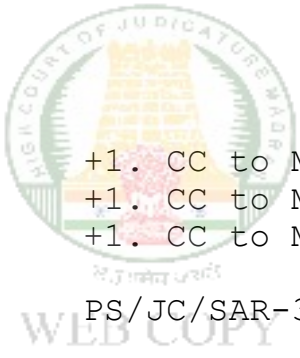
29/01/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO-III,
THOOTHUKUDI.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE,
TUTICORIN NORTH POLICE STATION, THOOTHUKUDI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



+1. CC to Mr.N.ANANTHAPADMANABHAN Advocate SR.No.1712

+1. CC to Mr.T.LAJAPATHIROY Advocate SR.No.1727

+1. CC to Mr.J.SENTHIL KUMARAI AH Advocate SR.No.1769

PS/JC/SAR-3/06.02.2019/5P-8C

ORDER

IN

CRL OP (MD) Nos.21685,21773,21809 of 2018

Date :29/01/2019