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

Thursday, the Third day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.19639 of 2018

R.PADMANABAN ... PETITIONER/ ACCUSED
RANK NOT KNOWN

Vs

1.THE STATE REPRESENTED BY
INSPCTOR OF POLICE,
CENTRAL CRIME BRANCH, MADURAI CITY,
MADURAI.

(*)2.HDFC BANK LTD,
REP BY ITS BRANCH MANAGER
Mr. PATRCIK P. MARTIN. ... RESPONDENTS /COMPLAINANT
R2 IMPLEADED AS PER THE ORDER OF
THIS HONOURABLE COURT MADE IN
CRL.MP(MD)No.9870/2018 in
CRL OP(MD)NO.19639/2018
DATED 11/12/2018.

S.V.S.V.S.MOHAN ...PETITIONER/INTERVENER

For Petitioner : Mr.T.ANTONY ARUL RAJ Advocate

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

For Intervener : Mr.N.ANANTHAPADMANABAN Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 409, 420, 468, 477A and 120B of IPC., in Crime No.43 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that HDFC Bank Branch Manager, Madurai Main Branch has lodged a complaint that during the period 2015-17, one Mahdavan, Personal Banking Authorizer, who was

having full control over the banking operations of the Branch and have to report to the Manager, who was also also incharge of the branch, whenever the Manager of the Bank was not there and he is the second level officer of the said Branch. The said Madhavan was transferred to Rajapalayam Branch, as a Branch Manager on 08.04.2017. On 15.06.2017, the Madurai Branch received a complaint from one of its customer about misappropriation of funds to the tune of Rs.20,00,000/- made in his account. The In-house enquiry conducted by the Branch reveal the involvement of said Madhavan, the then Branch Manager and other staff of the Branch. Further, other complaints about misappropriation were received. The complaints were reported to Central Office, Mumbai and investigation was conducted by the Audit Team of HDFC Ltd and submitted a detailed report. The Modus operandi seems to be persons used to collect cheques from the customers by giving one reasons or others and thereafter, forging the signatures of the depositors, the cheques were presented in the Teller counter and cash was encashed. Further, they were also transferred the funds from one account to other and thereby from the other account, the amounts had been withdrawn. Most of the misappropriated funds were routed through a specific account of the relative of the bank employees and hence. The petitioner herein was the Branch Manager during the relevant period, till he was relieved from the branch during May, 2017. Thus, the public funds of the Bank had been misappropriated to several lakhs.

3. The learned counsel appearing for the petitioner would submit that the petitioner is no way connected in these transactions. The accounts of the customers were handled by the Personal Banking Authorizer and the petitioner was only Head of the Branch and he is not aware of the individual transaction of the customers and during his period, no misappropriation of funds or any complaint were brought to his notice and being a over all head of the Branch, he was looking into various other operations of the Bank. According to the internal investigation, the petitioner has not been diligent in his supervisory role as he has not been able to make sure transaction processing discipline is maintained by him team, not identifying the wrong practices followed.

4. The learned counsel appearing for the intervener would submit that the intervener viz., S.V.S.V.S.Mohan, one of the depositors and in whose account several lakhs have been misappropriated, had filed the Intervening Application, wherein he has clearly stated the details of Bank Accounts from which the amounts had been diverted and misappropriated. He would further submit that since the intervener's son met with a road accident and died in the year 2015, the intervener was left handicapped and remained without any support to attend bank transactions and other business promotion activities. Taking advantage of the same and as showing sympathy on him, the petitioner / the then Branch Manager had introduced the first accused, the Public Relation Officer(PRO) of the said branch and informed that he can avail the service of

PRO, who is employed to help the persons. Further, the petitioner had approached the defacto complainant in his office in the month of June 2016 and informed that they are introducing a new type of cheque for business and SB accounts and hence, the petitioner had handed over all the cheque leaves issued to him to get new set of cheque book printed in the new pattern, as per the direction issued by RBI. Thereafter, without any suspecting no foul play, the intervener handed over all the cheque book of his personal Saving Bank Account, O.D.facility account and other account of his family members. Further, the Short Message Service (SMS) alert normally issued by the bank in case of transaction, in his account. The intervener despite giving phone number, he was not receiving any SMS in the transaction. In the meanwhile, the petitioner and others of the bank had forged the signatures of the petitioner and using the cheques of the defacto complainant available with them had misappropriated the amount to the tune of Rs.94,30, 510/-. Hence, he opposes the bail application of the petitioner.

5. The learned counsel appearing for the second respondent / the Present Manager of HDFC Bank, Madurai Branch, has filed a counter along with the typed set of papers, wherein the complaints received by the Bank from its customers, investigation report of the Bank, affidavit of the staff viz., the Teller one Mohammed Sahid Khan and V.R.Gnanam, stating that all the illegal transactions were done with the connivance and knowledge of the petitioner. He further submitted that they were forced to do the above said transactions by the petitioner along with the said Madhavan. The entire scam would be brought to the light only when they were duly interrogated by the respondent Police.

6. The learned Additional Public Prosecutor appearing for the State would submit that public funds of the Bank had been misappropriated to the tune of several lakhs and that the investigation is in crucial stage and the custodial interrogation of the petitioner is very much necessary and if he is released on anticipatory bail, the whole process of investigation would be stifled and there is possibility abscondance of the accused and tampering with evidence in the case. Hence, he strongly objected to grant anticipatory bail to the petitioner.

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

8. Considering the above facts and circumstances of the case and as rightly submitted by the learned Additional Public Prosecutor for the State, the public funds of the Bank had been misappropriated to several lakhs and the investigation is in crucial stage and the custodial interrogation of the petitioner is very much necessary and if he is released on anticipatory bail, the whole process of investigation would be stifled and there is possibility abscondance of the accused and tampering with evidence in the case, this Court

is not inclined to grant anticipatory bail to the petitioner. Hence, this Criminal Original Petition stands dismissed.

sd/-
03/01/2019

/ TRUE COPY /

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

TO

1.THE INSPCTOROF POLICE,
CENTRAL CRIME BRANCH, MADURAI CITY,
MADURAI.

2.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.T.ANTONY ARUL RAJ Advocate SR.No.77
+1. CC to Mr.C.MUTHU SARAVANAN Advocate SR.No.202
+1. CC to Mr.N.ANANTHAPADMANABAN Advocate SR.No.211

ORDER
IN
CRL OP(MD) No.19639 of 2018
Date :03/01/2019

TK/VR/SAR-4/08.01.2019/4P/6C