IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8632 of 2020

R. Manoharan .... Petitioner

Vs.

The Inspector of Police,
Commercial Crime Investigation Wing(CCIW)
Coimbatore. ....Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to grant bail to the petitioner in Crime No.1 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.A. Saran Raj

For Respondent : Mr.C. Iyyappa Raj
Additional Public Prosecutor

O R D E R

The petitioner who was arrested and remanded to judicial custody on 20.03.2020 for an alleged offence under Section 120 (B), 408, 467 and 477A of IPC , in Crime No.1 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is the Secretary of the Bellathi Co-operative Society. During the period from 01.04.2015 to 18.07.2018 the petitioner who is the Secretary of the Society had indulged in Fradulent Transaction and thereby misappropriated and defrauded the society money to the tune of Rs.4,80,50,385/- Initially enquiry was conducted Under Section 81 of the Co-operative Societies act and thereafter the enquiry report has been forwarded to the respondent along with the complaint. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the complaint is extraordinary delay and no reason has been given for the delay. Further as per the Co-operative Societies Act each and every year financial transaction has to be approved by the concerned Deputy Registrar of the Co-operative Society who conducts inspection and also audit of the accounts of the Society, which has been carried out periodically and during the periodical Inspection and audit no such allegations are made against the petitioner. Further in this case one Sumathi, the Assistant Secretary of the Co-operative Society was responsible for all the financial problems. Since, she has passed away, the entire allegations are now shifted against the petitioner. The petitioner had put unblemished services in the society for all these years. The Surcharge proceedings are still pending. In the meanwhile the properties of the petitioner and other accused has been attached. The entire documents of the case which are shown as Annexure-2 are in possession of the society and a copy is already with Respondent police. The petitioner has no access to the documents and the entire offence is based upon the documents. Further in this case the co accused A2 has been granted bail by this Court in Crl.O.P.No.8166 of 2020 vide order dated 05.06.2020. The petitioner has been Co-operating with the 81 enquiry and also filed an appeal against the order. The Surcharge proceedings is yet to be completed. Only after the surcharge proceedings are over, the quantum of liability would be fixed. Hence prayed for grant of bail.

4. The learned Additional Public Prosecutor submitted that the petitioner in connivance with other accused, over a period of time from 2015 to 2018 had swindled misappropriated the Co-operative Society money to the tune of 4,80,50,385/- for which 81 enquiry was conducted. During the 81 enquiry witness were examined, documents were perused, verified and after a detailed enquiry, the role played by the petitioner and other accused have come to light. The enquiry report along with the complaint has been forwarded. The investigation has commenced, documents have to be perused, witnesses are to be examined. The petitioner has swindled huge money of the society and the society has now put to huge loss. The learned Additional Public Prosecutor fairly submitted that the surcharge proceedings are pending and only on the surcharge proceedings the liability of the petitioner has to be ascertained. He also submitted that the properties of the petitioner are attached.

5. Taking into consideration of the fact that the surcharge proceedings are pending, properties are attached, further co accused has granted bail and 81 enquiry is pending and documents are already with the respondent department who are higher officials of the Co-operative Department for which the petitioner has no access and also considering the period of incarceration,

this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall deposit a sum of sum of Rs.50,000/- (Fifty Thousand only) to the cancer institute (WIA), (Regional Cancer Centre), Adayar, Chennai - 600 020 (Bank: Andhra Bank, Madhya Kailash, SB A/c No.149710011005477), and on such deposit, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on his release.

b) thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate, failing which the bail granted by this Court shall stand dismissed.

[c] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[d] **the petitioner shall report before the respondent police for a period of two weeks and thereafter as and when required for interrogation.**

[e] the petitioner shall appear before the trial Court during every hearing date without fail.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] the petitioner shall not abscond either during investigation or trial.

[h] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner 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].

[i) If the accused thereafter absconds, a fresh FIR can be registered underSection229AIPC.

-sd/-
16/06/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.IV,
COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
COMMERCIAL CRIME INVESTIGATION WING (CCIW),
COIMBATORE.

5 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE),
ADAYAR, CHENNAI - 600 020
(BANK: ANDHRA BANK, MADHYA KAILASH,
SB A/C NO.149710011005477),

CC to M/S.A.SARANRAJ Advocate on payment of necessary charges

CRL OP.8632/2020

Date :16/06/2020

MK:30/09/2020