

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.No.14719 of 2020

P.Kunchithapatham

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
District Crime Branch,
Namakkal Police Station,
Namakkal.

Crime No.14 of 2020.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Connection with the Crime No.14 of 2020 pending on the file of the respondent police.

For Petitioner : M/s.AL.Ganthimathi

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 and 408 IPC, in Crime No.14 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Kesava Pandian is that, he is the proprietor of textile company in the name of M/s.Nature Touch Clothing Pvt., Ltd.,Thiruchengodu, and exporting textiles to foreign countries. In order to improve the business, he obtained loan from the accused bank from the year 2016 and totally Rs.4 crores was sanctioned to him. Thereafter, due to demonetization, he was unable to repay the loan installments regularly. The petitioner who is the Manager of the City Union Bank, Tiruchengode, along with the one who is the Manager and Assistant Branch Manager of the Bank

without the consent of the defacto complainant, had sanctioned a sum of Rs.13,80,000/- and improperly withdrawn a sum of Rs.1,40,000/- and Rs.5,45,000/- from the account of the defacto complainant, during the period between October 2019 to December 2019 and cheated him.

3. The learned Senior counsel for the petitioner would submit that the petitioner is the Branch Manager of City Union Bank, Thiruchengode Branch and the defacto complainant had borrowed loan of Rs.4 Crores from the Bank, based on the deposit of documents. Further, as on date a sum of Rs. 4,60,22,916/- remains outstanding to be paid by the defacto complainant to the Bank. In order to harass the bank officials and pre-empt them from taking recovery proceedings against him, the defacto complainant has given a false complainant against the petitioner as if he along with other officials had committed irregularities and misappropriated the amount from his account. He would also submit that the entire case of the defacto complainant has been borne out by the documents and the petitioner is prepared to appear before the respondent police for investigation.

4. The respondent has filed a counter.

5. The learned Additional Public Prosecutor would vehemently oppose stating that, the defacto complainant is the customer of City Union Bank, holding an A/c.No.5120200015206 and in order to improve the business, he had obtained loan from the accused bank from the year 2016 and totally Rs.4 crores was sanctioned to him. He would also submit that the petitioner who is the Branch Manager had played an active role and by misusing his official position as Branch Manager had sanctioned additional loan without any proper application or requisition from the defacto complainant and withdrawn the amounts. He would further submit that on 12.10.2019 Rs.1,40,000/- was withdrawn from the account of the defacto complainant without any cheque or withdrawal form on the basis of passing order by the petitioner and again on 24.12.2019, a sum of Rs.2,00,008/- was adjusted in the account of the defacto complainant without following proper procedure. During the relevant point of time the petitioner was the Branch Manager in Thiruchengode City Union Bank and he and the other officials are liable for all the irregularities and misappropriation.

6. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned **Judicial Magistrate, Namakkal**, on condition that the petitioner 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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.

[b] the petitioner shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

[d] the petitioner 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 petitioner 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

21/09/2020

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,
NAMAKKAL.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
NAMAKKAL POLICE STATION,
NAMAKKAL.

+1CC to M/S. AL.GANTHIMATHI Advocate on payment of
necessary charges SR NO.6374

CRL OP.14719/2020

Date :21/09/2020

MK:06/10/2020



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