

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE. M.NIRMAL KUMAR

Crl.O.P.No.18041 of 2020

Mohan

... Petitioner

Vs.

State Represented by
The Inspector of Police,
CCIW - CID Police Station,
Vilupuram, Vilupuram District.
(Crime No.4 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioner on bail pending investigation in Crime No.4 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Arun

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)

ORDER

This case has been heard through video conference

The petitioner who was arrested and remanded to judicial custody on 07.10.2020 for the offence punishable under Sections 408, 120 (b), 471, 477 A of IPC, in Crime No. 4 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 Marakkanam Adidraavidar Salt Workers Co-operative Production and Marketing Society and the defacto complainant is the Deputy Registrar of Virudhachalam. The petitioner along with others have cheated a sum of Rs.30,55,127/- and the further allegation is that the petitioner has misappropriated a sum of Rs.30,55,127/- during the period from 01.04.2017 to 30.06.2018 by way of trust, forgery and falsification of accounts in Marakkanam Adidraavidar Salt Workers Co-operative Federation Limited. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case due to vengeance. He would further submit that in this case, there are two 81 Enquiry conducted. In the first enquiry, the petitioner was absolved from charges and in the second enquiry, the petitioner has been implicated. Conducting of two enquiries under Section 81 of Tamil Nadu Co-operative Societies is unheard, bad in law. The Society, after considering all these aspects, had reinstated the petitioner and the petitioner had paid only the statutory dues such as EPF Contribution, Payment to Central Bank etc., He would further submit that no material evidence is found against the petitioner and the petitioner is in judicial custody from 07.10.2020 and seeks bail for the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that totally there are two accused in this case and A2 is still absconding in this case. He would further submit that the said misappropriation amount has not been recovered from the petitioner. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner is in judicial custody from 07.10.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner is ordered to be released on bail and he shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties before learned Judicial Magistrate-II, Tindivanam, Villupuram.

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., for a period of two weeks, and as and when required.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

30/11/2020

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.II,
TINDIVANAM, VILLUPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
CCIW - CID POLICE STATION,
VILLUPURAM,
VILLUPURAM DISTRICT.

+1CC to M/S. D.ARUN Advocate on payment of necessary charges SR NO.7832

CRL OP.18041/2020

Date :30/11/2020

MK:02/12/2020