

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18942 of 2020

R.Krishnaraj

... Petitioner

Vs.

State rep. by Inspector of Police
CCIW, Cuddalore, Cuddalore District
(Crime No.5 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.5 of 2019 on the file of the Respondent.

For Petitioner : Mr.K.Raja

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

(This Case has been heard through video conferencing)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 120-B, 406, 408, 467, 468, 471 and 477-A IPC, in Crime No.5 of 2019, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz. Venkatachalapathy, the Deputy Registrar of Co-operative Society is that the accused who was working as a Special Officer along with other accused, who is working as an accountant in the Cuddalore Agircultural Producers Cooperative Marketing Society, by fabrication of documents and falsification of accounts had cheated the Cooperative Society to the tune of Rs.1,26,99,000/- by crediting loans to 36 fictitious accounts and also by illegally selling paddy stock. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that this is the second anticipatory bail petition and during the earlier occasion, certain facts were not provided properly before this Court and it was wrongly stated by the respondent police that apart from the amount of Rs.1,26,99,000/-, a further amount of Rs.42,07,000/- is also misappropriated the petitioner by illegally selling the paddy stock. He would further submit that the misappropriation is alleged to have done on three heads and the amount of Rs.1,26,99,000/- is inclusive

of Rs.42,07,000/- . He would further submit that the petitioner was only a Special Officer and the entire accounts and money transactions were done by the other accused who was working as an accountant in the society and that the petitioner has no role to play in the money transactions. He would further submit that when the enquiry under section 81 of the Cooperative Society Act was conducted, the other accused had deposited the entire amount i.e. Rs.1,26,99,000/- along with interest to the society and the same has been recorded in the report of enquiry conducted under Section 81 of the Cooperative Society Act, by the enquiry officer. He would further submit that since the petitioner was not having those facts, it was not brought to the knowledge of this Court on the earlier occasion. He would further submit that no loss has been caused to the society and the entire case of the prosecution is borne out by the documents. He would further submit that the petitioner at the verge of retirement was suspended and the terminal benefits has not been settled to him so far, due to which, he is facing hardship. He would further submit that the petitioner is 65 years old now and he is prepared to appear before the respondent and cooperate for the investigation.

4.The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that by fabrication and falsification of accounts, the accused along with other accused had disbursed loans to various fictitious accounts and misappropriated to the tune of Rs.1,26,99,000/- by selling paddy.

5.Heard the learned counsel on either side. Perused the materials placed on record, including the report of the enquiry conducted under Section 81 of the Cooperative society Act and also the F.I.R.

6.Taking into consideration of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate-I, Cuddalore, on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties each for the 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 automatically;

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police 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 everyday at 10.30 a.m. until further orders.

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

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

[f] 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].

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

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

-sd/-

21/12/2020

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.I,
CUDDALORE

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
CCIW, CUDDALORE,
CUDDALORE DISTRICT.

CC to M/S.K.RAJA Advocate on payment of necessary charges
Sr.8484

CRL OP.18942/2020

Date :21/12/2020

RVR 04/01/2021

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