



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

Date : 16/10/2020

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PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD).Nos.11460, 11540 and 11566 of 2020

M.Natarajan .. Petitioner/8th Accused
in Crl.O.P(MD)No.11460 of 2020

A.Shanmugam .. Petitioner/Accused No.6
in Crl.O.P(MD)No.11540 of 2020

M.Soundararajan .. Petitioner/9th Accused
in Crl.O.P(MD)No.11566 of 2020

Vs

1.The Superintendent of Police,
Commercial Crime Investigation Wing,
O/o.Director General of Police,
Chennai.

2.The Inspector of Police,
Commercial Crime Investigation Wing,
Tiruchirappalli.
(Ref. Crime No.2 of 2020). ... Respondents/Complainants
in Crl.O.P(MD)Nos.11460 & 11566 of 2020

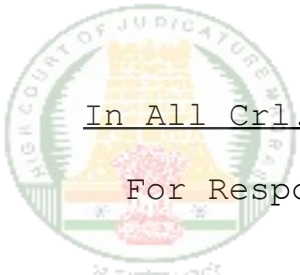
The Inspector of Police,
CCIW - CID.,
Tiruchirappalli,
In Crime No.2 of 2020 ... Respondent/Complainant
in Crl.O.P(MD)No.11540 of 2020

In Crl.O.P(MD)Nos.11460 & 11566 of 2020:

For Petitioner : Mr.D.Shanmugaraja Sethupathi,
Advocate

In Crl.O.P(MD)No.11540 of 2020:

<https://hcservices.mca.gov.in/hcservices/> : Mr.I.Suthakaran, Advocate



In All Crl.OPs:

For Respondents : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.2 of 2020 on the file of the respondent police.

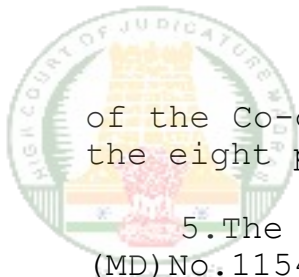
ORDER : The Court made the following order :-

The petitioners are arrayed as A8, A6 and A9. The petition in Crl.O.P.(MD).No.11460 of 2020 has been filed by A8, and the petition in Crl.O.P.(MD).No.11540 of 2020 has been filed by A6, and the petition in Crl.O.P.(MD).No.11566 of 2020 has been filed by A9, seeking anticipatory bail.

2.The petitioners, who are arrayed as A8, A6 and A9 respectively in Crl.O.P(MD)Nos.11460, 11540 and 11566 of 2020, apprehending arrest at the hands of the respondent Police, for the offence punishable under Sections 120(B), 467, 468, 471, 477(A), 408, 409 and 420, in Crime No.2 of 2020, seek anticipatory bail.

3.The case of the prosecution is that the employees of the Varatharajapuram Primary Agricultural Co-operative Credit Society, including the Secretary and the Elected Board of Directors and President have committed a fraud and misappropriated to the tune of Rs.9,07,00,000/-. Therefore, the enquiry had been conducted under Section 81 of the Tamil Nadu Co-operative Societies Act and on the basis of the enquiry report, the case has been registered. Subsequently, under Section 87 of the Tamil Nadu Co-operative Societies Act, Surcharge proceedings were also initiated.

4.The learned counsel appearing for the petitioner in Crl.O.P (MD)Nos.11460 and 11566 of 2020 submitted that the petitioners were working in the Co-operative Audit Department. During the relevant period, the petitioners have conducted Audit in the Society and they did not find out any irregularities and misappropriation committed by the employees of the society. Therefore, utmost offence would attract as against the petitioners is they committed dereliction of duty and they have failed to find out the irregularities and thereby violated the duties and responsibilities. So far as the fraud and misappropriation is concerned, the petitioners are nothing to do with the offence as alleged by the prosecution. He further submitted that there is absolutely no findings again the petitioners in the enquiry report, initiated under Section 81 of the Co-operative Society Act. Based on the enquiry, the FIR has been registered and surcharge proceedings also initiated under Section 87



of the Co-operative Societies Act. The entire proceedings as against the eight persons but not against the petitioners herein.

5.The learned counsel appearing for the petitioner in CrI.O.P (MD)No.11546 of 2020 submitted that as per the petitioner is concerned he was working as a Supervision and he never worked under the Society. He was working in the Trichirappalli District Central Co-operative Bank. His duty is only supervise the societies transactions. In fact, without any notice to him, on the basis of the enquiry report conducted under Section 81 of the Co-operative Societies Act, the defacto complainant initiated Surcharge proceedings under Section 87 of the Co-operative Societies Act. Challenging the Surcharge proceedings, the petitioner has filed a Writ Petition in W.P(MD)No.871 of 2020 before this Court and this Court by order dated 20.01.2020 stayed all further proceedings. Therefore, there is absolutely no material to fix the petitioner for the offence as alleged by the prosecution.

6.The learned Government Advocate (CrI Side) appearing for the respondent Police submitted that there are totally twenty accused in which, the petitioners are herein arrayed as A8, A6 and A9. The petitioner/A6 is concerned he was working in the Trichirappalli District Central Co-operative Bank and he failed to supervise the society and also he colluded with other accused persons and caused huge loss to the society to the tune of Rs.9,07,00,000/-. In respect of A8 and A9 are concerned they are Auditors and they have failed to discharge their duty and the misappropriation committed by the other employees of the Society. Thereby, all the petitioners have equally responsible for the loss caused to the society. Therefore, he vehemently opposed to grant anticipatory bail to the petitioners.

7.It is seen that there are totally twenty accused, in which, the petitioners are arrayed as A8, A6 and A9. Admittedly, A6 was working as a Supervisor of the Trichirappalli District Central Co-operative Bank. So far as A8 & A9 are concerned they were working as a Co-operative Auditors and they have conducted Audit in the Societies and failed to find any irregularities and also misappropriation committed by the other accused persons. Insofar as the other accused persons are concerned, they were arrested and remanded to judicial custody.

8.On perusal of the Surcharge proceedings initiated under Section 87 of the Co-operative Societies Act in respect of A8 & A9 are not concerned, the only offence against them is that they committed dereliction of duty and have failed to find any irregularities and thereby violated the duties and responsibilities. Insofar as A6 is concerned, challenging the Surcharge proceedings initiated under Section 87 of the Tamil Nadu Co-operative Societies Act, he filed a Writ Petition in W.P(MD)No.871 of 2020, before this Court and this Court by order dated 20.01.2020 granted interim stay

<https://hdservices.edcourts.gov.in/hdservices/> proceedings and the Writ Petition is also pending.



9.Considering the above facts and circumstances of the case and also considering the fact that there is no allegation as against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

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10.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Musiri, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioners 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 petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners 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 petitioners 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]; and;

(f)if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
16/10/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant



TO

1 THE JUDICIAL MAGISTRATE,
MUSIRI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI.

3 THE SUPERINTENDENT OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
O/O.DIRECTOR GENERAL OF POLICE,
CHENNAI.

4 THE INSPECTOR OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
TIRUCHIRAPPALLI.

5 THE INSPECTOR OF POLICE,
CCIW - CID.,
TIRUCHIRAPPALLI.

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

+1. CC to M/S.D.SHANMUGARAJA SETHUPATHI Advocate SR.No.7118

ORDER

IN

CRL OP (MD) .Nos.11460, 11540
and 11566 of 2020

Date :16/10/2020

VSD

JM/VR/SAR III/22.10.2020/5P/8C