



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2020

PRESENT

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

CRL OP(MD). No.12254 of 2020

C.Gunasekaran

... Petitioner/Accused (A10)

Vs

The State of Tamil Nadu
Rep. by its Inspector of Police,
Commercial Crime Investigation Wing,
Tiruchirappalli-20.
(Crime No 2 of 2020)

... Respondent/Complainant

For Petitioner : M/s.S.Karthikeyan, Advocate.

For Respondent : 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.

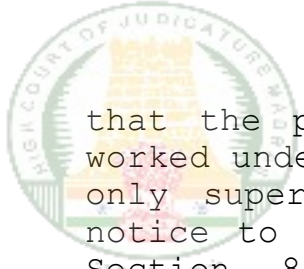
ORDER : The Court made the following order :-

The petitioner, who is as A10, 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 IPC, in Crime No.2 of 2020, seeks anticipatory bail.

2.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.

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

3.The learned counsel appearing for the petitioner submitted



that the petitioner was working as a Field Officer and he never worked under the Society. He was working in Thottiyam. 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.2756 of 2020 before this Court and this Court by order dated 04.03.2020 stayed all further proceedings. Therefore, there is absolutely no material to fix the petitioner for the offence as alleged by the prosecution.

4.The learned Government Advocate (Crl Side) appearing for the respondent Police submitted that there are totally twenty accused in which, the petitioner herein is arrayed as A10. The petitioner/A10 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/-. Therefore, he vehemently opposed to grant anticipatory bail to the petitioners.

5.It is seen that there are totally twenty accused, in which, the petitioner is arrayed as A10. Admittedly, the petitioner was working as a Field Officer in Thottiyam. Insofar as the other accused persons are concerned, they were arrested and remanded to judicial custody.

6.On perusal of the Surcharge proceedings initiated under Section 87 of the Co-operative Societies Act, he has committed dereliction of duty and failed to find any any irregularities and thereby violated the duties and responsibilities. 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.2756 of 2020, before this Court and this Court by order dated 04.03.2020 granted interim stay to all further proceedings and the Writ Petition is also pending.

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

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his 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 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

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(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]; and;

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

sd/-

03/11/2020

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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 concerned.

TO

1. THE JUDICIAL MAGISTRATE,
MUSIRI, TRICHY DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
TIRUCHIRAPPALLI-20.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.12254 of 2020

Date : 03/11/2020

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