

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.337 of 2021

Thanigaivel

... Petitioner

-Vs-

State Represented by ... Respondent
The Inspector of Police,
CCIW, Thiruvallur.
(Crime No.1 of 2020)

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner/A2 on bail in the event of his arrest in Crime No.1 of 2020 is pending on the file of the respondent police.

For Petitioner : Mr.M.L.Ramesh
For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The case has been heard through video conference

The petitioner, who apprehends arrest for the alleged offences under Sections 406, 408, 477 A and 109 of IPC, in Crime No.1 of 2020, on the file of the respondent/Police, seeks anticipatory bail.

2.The case of the prosecution is that there are totally two accused persons involved in this case. The allegations is that, the petitioner was working as a Secretary of a Co-operative Society, and he had misappropriated the amount to the tune of Rs 98 Lakhs. Earlier an enquiry was ordered Section 81 of the Co-operative Society Act and the enquiry was conducted, and filed a report stating that the petitioner along with A1 had misappropriated the amount to the tune of Rs.98 Lakhs. Hence, the complaint was registered.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he is no way connected with this crime and he has been falsely implicated in this case, even as per the section 81 enquiry, he has nor misappropriated the funds, and pending of the enquiry he has deposited a sum of Rs.27 Lakhs. He would further submit that A1 has already been arrested and thereafter he was released on the station bail on the same day. He would further submit that there is no previous case pending as against the petitioner. He would further submit that the petitioner is ready and willing to deposit considerable amount without prejudice to his contention and prays for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that A1 in this case, the President of the Co-operative Society he has been arrested and thereafter he was released on bail. He would further submit that the petitioner was the Secretary of the Society and he has misappropriated the amount to the tune of Rs.98 Lakhs. He would further submit that based on the section 81 enquiry, it was found that they have misappropriated the funds, the case has been registered, an vehemently opposed for grant of anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and that the investigation is also completed, and the petitioner already deposited a sum of Rs.27 Lakhs, and there is no previous case pending as against the petitioner, this court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is directed to deposit a sum of Rs.25,00,000/- (Rupees twenty five lakhs only) to the credit of Crime No.1 of 2020, before the learned Judicial Magistrate, Uthukottai, within a period of eight weeks from the date on which the order copy made ready, and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, Uthukottai, 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] before executing sureties, the petitioner shall deposit a sum of Rs.25,00, 000/- (Rupees Twenty five lakhs only) to the credit of Crime No.1 of 2020, before the concerned Judicial Magistrate, within a period of eight weeks from the date on which the order copy made ready.

[c] the final order in respect of the said deposit shall passed by the learned trial Judge at conclusion of trial.

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

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

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

[g] 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]**.

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

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

-sd/-

19/02/2021

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,
UTHUKOTTAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CCIW, THIRUVALLUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.M.L.RAMESH Advocate on payment of necessary charges SR.NO.1991

CRL OP.337/2021

Date :19/02/2021