

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighteenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION Nos.1746, 1958 & 2145 of 2021

T.SUBRAMANI [PETITIONER / ACCUSED
IN CRL.OP.NO.1746/2021]

SIVASAKTHI [PETITIONER / ACCUSED
IN CRL.OP.NO.1958/2021]

J.NAGARAJAN [PETITIONER / ACCUSED
IN CRL.OP.NO.2145/2021]

Vs

STATE REP BY [RESPONDENT
THE INSPECTOR OF POLICE,
CCIW, THIRUVANNAMALAI,
THIRUVANNAMALAI DISTRICT.
CRIME NO.01/ 2021. IN ALL THE PETITIONS]

For Petitioner : M/S N.NARAYANASWAMY Advocate
[IN CRL.OP.NO.1746/2021]

For Petitioner : M/S D.PARTHIBAN Advocate
[IN CRL.OP.NO.1958/2021]

For Petitioner : M/S M.S.PALANISWAMY Advocate
[IN CRL.OP.NO.2145/2021]

For Respondent : M/S.S.KARTHIKEYAN, Additional Public Prosecutor
[IN ALL THE PETITIONS]

PETITIONS FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

In all the three cases, the petitioners are co-accused and the crime number being common for the offences under Sections 408, 465, 468, 471, 477(A) and 420 of IPC r/w Section 109 and 120(B) of IPC these petitions are heard together and disposed of by means of this common order.

2. The petitioners are A1 to A3. The allegation against them are they all worked as Secretaries during various periods in one Arni Primary Agriculture Co-operative Credit Society Ltd., Cheyyar, and they have misappropriated the funds of the Society to the tune of about Rs.30,00,000/-. Hence enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to 'the Act'), has been initiated and a report also came to be filed. Stating that all the petitioners misappropriated funds and they are jointly and severely liable to pay a sum of Rs.36,50,000/-. Thereafter based on the enquiry report, a criminal complaint has been filed and the petitioners apprehending arrest filed these petitions.

3. The learned counsels appearing for the petitioners submitted that the petitioners were working as Secretaries and they have only supervisory power and they did not misappropriated any amount and they have been falsely implicated in this case. Further, A3 has paid a sum of Rs.8,00,000/- to the Society as early as in August, 2019 itself without prejudice to his rights. Hence, the learned counsel seeks anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that based on the enquiry report filed under Section 81 of the Act, the above crime has been registered and the petitioners who were working as Secretaries in the Co-operative Societies at the relevant time has misappropriated the funds to the tune of about Rs.30,00,000/- and proceedings under Section 87 of the Act has also been initiated against them, now it is not open for them to contend that they are not liable to pay the amount.

5. Considering the facts and circumstances of the case, and the fact that the occurrence had taken place from the year 2015, and proceedings under Section 87 of the Act has also been initiated and one of the accused viz., A3 has paid a sum of Rs.8,00,000/-, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following stringent conditions :

(a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Tiruvannamalai, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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 in each case, failing which, the petitions for anticipatory bail shall stand dismissed and on further condition that:

(b) 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.

(c) A1 and A2 shall deposit a sum of Rs.5,00,000/- (Rupees five lakhs only) each, before the the learned Judicial Magistrate No.II, Tiruvannamalai, to the credit of Crime No.1 of 2021, within a period of four weeks from the date of receipt of a copy of this order.

(d) The petitioners shall appear before the respondent police, as and when required for interrogation.

(e) The petitioners shall not tamper with evidence or witness either during investigation or trial.

(f) The petitioners 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 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].

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

6. With the above directions, the Criminal Original Petitions are ordered.

-sd/-

18/03/2021

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,
NO.II, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CCIW, THIRUVANNAMALAI,
THIRUVANNAMALAI DISTRICT.

+1 CC to M/S N.NARAYANASWAMY Advocate on payment of necessary
charges SR.No.3659

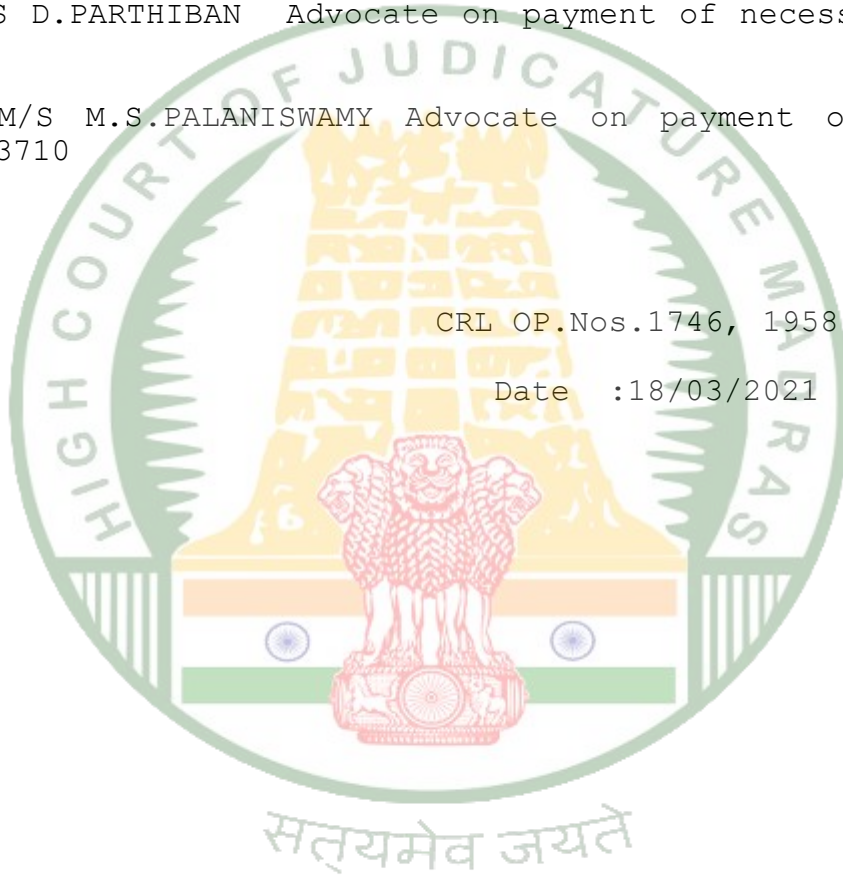
+1 CC to M/S D.PARTHIBAN Advocate on payment of necessary charges
SR.No.3705

+1 CC to M/S M.S.PALANISWAMY Advocate on payment of necessary
charges SR.No.3710

CRL OP.Nos.1746, 1958 & 2145/2021

Date :18/03/2021

cs 07/04/2021



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