IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twentieth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mrs Justice V.BHAVANI SUBBAROYAN

CRIMINAL ORIGINAL PETITION No.5934 of 2020

P.VIMAL KUMAR [PETITIONER / ACCUSED]

Vs

STATE REP. BY [RESPONDENT]
INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
ERODE, ERODE DISTRICT.
CRIME NO.17 OF 2019

For Petitioner : M/S. A.H.SRIKANTH Advocate

For Respondent : Mrs.M.Prabhavathi Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 420, 408, 468, 471 and 477(A) of IPC, in Crime No.17 of 2019, seeks anticipatory bail.

2. The petitioner is the sole accused in this case. The case of the prosecution is that while the petitioner was working as Branch Manager, one V.Parameshwaran had availed three jewel loans for a sum of Rs.11,70,000/- and he had passed away on 16.03.2018, despite knowing the death of the said customer, the petitioner had deliberately closed the said three jewel loans in a fraudulent/dubious manner without following the death claim norms/consent of the legal heirs of the deceased borrower and opened

two fresh jewel loans on the same day. Secondly, on 24.01.2017, the Divisional Officer, Karur had sanctioned an exceeding of Rs.75,00,000/- to the Mangalam Educational Trust in their SOD Account No.1642280272 for 90 days. On the due date of exceeding i.e. 24.04.2017, Rs.35,00,000/- was adjusted by the customers. Subsequently, he had borrowed Rs.40,00,000/- from P.Sivalingam (Branch customer) and credited to the said Mangalam Educational & Charitable Trust to clear the exceeding. On 04.05.2017, the Managalam Trust had handed over Rs.9,00,000/- to the petitioner for repaying the amount to P.Sivalingam, but he had deposited the amount in the Adhars Educational Trust Account No.1642.716.32 as it was showing arrears and their new term loan proposal was pending at CO when P.Sivalingam pressurised for his money, he had opened SOD(A) in the name of ARUL SELVI AGENCIES (ADHARS GROUP) of Rs.9,00,000/- against their deposit and five deposits loan for a sum of Rs.31,00,000/- in the name of Sivakumar and repaid the amount of Rs.40,00,000/- to P.Sivalingam. Whileso, K-3 Management group had requested the branch to extend the exceeding/fresh loan for their liquidity requirements. Since there was no option of sanctioning fresh loan/limits, he had deputed other branch account of various customers of branch unauthorizedly for Rs.394.52 lakhs (without cheque/mandate from the said customers/using loose cheque leaf with fake signature) and transfer the amounts through internal vouchers in a fraudulent manner and credited the amount to K3 Management group. Thus, the petitioner had acted against the policy of the bank and failed to take all necessary steps to ensure and protect the interest of the bank and also failed to discharge his duties with utmost integrity and honesty. Hence, the case has been registered against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. He would further submit that the entire loan amount has been paid by the petitioner. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the allegation against the petitioner is that the petitioner while sanctioning loan to the customers has not followed the norms and thereby caused pecuniary loss to the bank. She would further submit that the entire loan amount has been recovered from the petitioner. However, she vehemently opposed to grant anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and also the submission made by the learned counsel for the petitioner that the entire loan amount has been recovered from the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6.Accordingly, the petitioner is ordered 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 made ready, before the learned Judicial Magistrate No.II, Erode, on condition that the petitioner shall execute a bond for a sum of Rs.20,000/- (Rupees twenty 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 this petition for anticipatory bail shall stand dismissed and on further condition that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(b) the petitioner shall appear before the respondent police as and when required for interrogation.

(c)the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial 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/-
20/04/2021

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, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
ERODE, ERODE DISTRICT.

CC to M/S. A.H.SRIKANTH Advocate on payment of necessary charges

CRL OP.5934/2020

Date :20/04/2021

RVR 24/06/2021