IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Saturday, the Seventeenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.5693 of 2020
&
Crl.M.P.No.764 of 2021

1 KALAI [PETITIONER / ACCUSED]
2 NAGARAJ

Vs

THE STATE [RESPONDENT]
REP BY ITS INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH TIRUVALLUR,
TIRUVALLUR DISTRICT.
CRIME NO. 36/2019

For Petitioner : M/S.P.UDAYAKUMAR Advocate

For Respondent : M/S.S.KARTHIKEYAN,Addl. Public Prosecutor,

For Intervenor : M/S.A.DAMODARAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 409, 417, 420 r/w.34 of IPC in Cr.No.36 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that totally there are nine accused involved in this case. The defacto complainant is a Small Finance Bank registered with RBI, lending loans to customer, i.e. Loan against immovable property and Micro Finance loan to self helped group through the branches located across nation. During the course of audit in Gummidipoondi, Minjur and Ponneri Branch, it was found that the Branch Managers along with other bank staffs have involved in malpractices by misappropriated the settlement amount of the borrowers with *mala fide* intention to defraud the bank. In

Gummudipoondi Branch, A1 colluded with A2 to A4 had misappropriated a sum of Rs.29,04,762/- from the customer being the settlement amount and collected the monthly instalments from 291 borrowers amount to Rs.16 lakhs and had not remitted to the bank for credit into the customers respective loan account and misappropriated the amount. In Minjur Branch, A5-Branch Manager colluded with A6 to A8 and misappropriated a sum of Rs.12,18,040/- from the customer being the settlement amount and also collected the monthly instalments from members of Micro Finance (MFI) customer amount to Rs.4,40,590/- and not remitted into the bank for credit into the customer's respective loan account and in Ponneri Branch, a sum of Rs.2,50,000/- from the customer being the settlement amount along with the monthly instalment collected from the members of Micro Finance (MFI) customer amount to Rs.2,29,550/- and the monthly instalments collected from 99 borrowers amount to Rs.8,38,350/- and had not remitted into the bank for credit into the customer's respective loan account and had misappropriated the said amount and thereby cheated. Hence, the present complaint.

3. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they are in no way connected with the alleged offence as prosecuted and that a false case has been foisted against them. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned counsel for the Intervenor submitted that the petitioners are arrayed as A6 and A7. The petitioners, who were Branch Managers colluded with A3 and other accused were said to have misappropriated to the tune of Rs.12,18,040/- and caused loss to the bank. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. It is submitted by the learned Additional Public Prosecutor that the petitioners along with other accused, who were all Branch Managers along with other bank staffs were said to have cheated a sum of Rs.12,18,040/- in Minjur Branch, a sum of Rs.29,04,762/- in Gummidipoondi Branch and a sum of Rs.1,92,900/- in Ponneri Branch. Therefore, the investigation is pending and that no amount has been recovered so far. Therefore, he opposed to grant anticipatory bail to the petitioners.

6. It is seen that the bank is engaged in providing loan to economically weaker section of the society and the people who engage in small business like running petty shops, eateries, fruit vendors, flower vendors etc., The officials of the bank exploited the customers who have lack of knowledge about bank activities, induced them to part with money and misappropriated the money paid to them.

7. In view of the offence committed by the petitioners and that the investigation is still underway and the custodial interrogation of the petitioners is also required, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this Criminal Original Petition is dismissed.

-sd/-
17/04/2021

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 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH TIRUVALLUR,
TIRUVALLUR DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.P.UDAYAKUMAR Advocate on payment of necessary charges

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&
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Date :17/04/2021