



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/02/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.15934 of 2020

M.Kandhakumar

... Petitioner/Accused No.18

Vs

1. The Superintendent of Police,
Commercial Crime Investigation Wing,
O/o. Director General of Police,
Chennai.

2. The State Rep.by
The Inspector of Police,
CCIW Police Station,
Tiruchirapalli.
In Crime No.2 of 2020.

... Respondents/Complainants

For Petitioner : Mr.M.Karunanithi,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

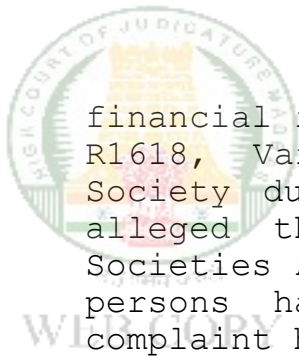
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

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/A-18, apprehending arrest at the hands of the respondent police for the offences punishable under sections 120(b), 467, 468, 471, 477-A, 408, 409 and 420 of IPC, in Crime No.2 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that based on the complaint lodged by the Deputy Registrar, Co-operative Societies, Musiri Circle, Trichy District, alleging that the Secretary and the Board of Directors including the President have committed various



financial irregularities in granting loan to the self-help groups in R1618, Varatharajapuram Primary Agriculture Co-operative Credit Society during the period from 01.04.2016 to 30.09.2018. Further alleged that under section 81 of the Tamil Nadu Cooperative Societies Act, enquiry was conducted and found that all the accused persons have committed the financial irregularities. Hence, a complaint has been registered.

3. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (criminal side).

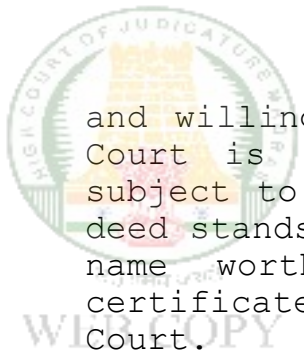
4. The learned counsel appearing for the petitioner would submit that the petitioner is the elected administrative members of the Society and he is no way connected with the President and Secretary of the Society and the entire allegations only as against the Secretary and President, who cheated the society fund. He further submitted that the petitioner being Board of Directors he is said to have committed an offence for lack of dereliction of supervising duty, except this he has not committed any offence and misappropriated any amount as alleged by the defacto complainant. Hence, he seeks anticipatory bail.

5. The learned Government Advocate (criminal side) appearing for the respondent police would submit that they have conducted enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act and they found that the petitioner is the Board of Directors along with President and Secretary of the Society and he disbursed loan amount to the beneficiaries and also created fake loan account as well as fixed deposits and misappropriated to the tune of Rs.9 crores. He further submitted that the President and Secretary were already arrested and released on bail and no recovery has been made till today and therefore, the custodial interrogation of the petitioner is very much required in this case.

6. It is seen from the records that totally there are 20 accused in which the petitioner is arrayed as A-18. On enquiry conducted under Section 81 of the Societies Act, they found that in R1618, Varatharajapuram Primary Agriculture Co-operative Credit Society, the President and Secretary and Board of Directors have committed various financial irregularities in granting loan to the self help group and also disbursing loan amount to fictitious persons and also fixed deposits, thereby misappropriated to the tune of 9 crores. So far as, the respondent police has arrested President and Secretary and no recovery was made till date.

7. The learned counsel for the petitioner would submit that the petitioner is ready and willing to deposit a title deed worth about Rs.50 lakhs.

8. Taking into consideration the facts and circumstances of the case and taking note of the fact that the petitioner is ready



and willing to deposit a title deed worth about Rs.50 lakhs, this Court is inclined to grant anticipatory bail to the petitioner subject to the condition that the petitioner shall deposit a title deed stands in his name or in his relative's name or in his friend's name worth about Rs.50 Lakhs along with property valuation certificate from the Authorities competent, before the concerned Court.

9.On such deposit, the petitioner is ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Musiri, Tiruchirapalli, 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:

(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 period of four 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/02/2021

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/ /2021
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, TIRUCHIRAPPALLI.
2. -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.
- 3 THE SUPERINTENDENT OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
O/O. DIRECTOR GENERAL OF POLICE, CHENNAI.
4. THE INSPECTOR OF POLICE,
CCIW POLICE STATION, TIRUCHIRAPPALLI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.M.KARUNANITHI, Advocate (SR-1017[I] dated 16/02/2021)

ORDER
IN
CRL OP(MD) No.15934 of 2020
Date :15/02/2021

CP

AE/VR/SAR-III (01/03/2021) 4P / 7C