



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 30/11/2021
PRONOUNCED ON : 02/12/2021

PRESENT

WEB COPY

The Hon'ble Mr. Justice K.MURALI SHANKAR

CRL OP(MD). No.18476 of 2021

S.SUNDARA KALEESWARI

... PETITIONER/3RD ACCUSED

VS

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
CCIW, RAMANATHAPURAM,
(CRIME NO. 6/2021).

... RESPONDENT/COMPLAINANT

For Petitioner : M/sI.Robert Chandrakumar,
Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

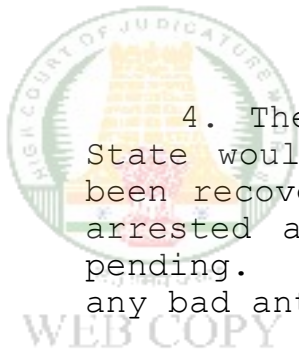
For Bail in Crime No. 6 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/third accused, who was arrested and remanded to judicial custody on 18.10.2021 for the offence punishable under Sections 409, 420, 465, 468, 471, 477A and 120B I.P.C., in Crime No.6 of 2021, on the file respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant - Deputy Registrar has lodged a complaint with regard to the alleged irregularities and misappropriation of money in the Nainarkovil Branch of the District Central Co-operative Bank Ltd., and the petitioner, who is working as Assistant in the said Bank, was also working as cashier - in-charge for six days, when the cashier was on leave and Rs.10,00,000/- was misappropriated during that period.

3. The learned Counsel for the petitioner would submit that the petitioner is innocent and she has not committed any offence as alleged by the prosecution and that she is working as Assistant in the said Bank. The learned Counsel would further submit that the petitioner is under judicial custody from 18.10.2021 and hence, he seeks bail to the petitioner.



4. The learned Additional Public Prosecutor appearing for the State would state that the alleged misappropriated amount has not been recovered from the accused, that the main accused were already arrested and are under judicial custody and the investigation is pending. He would further submit that the petitioner is not having any bad antecedents.

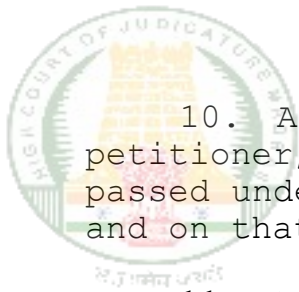
5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State and also perused the materials placed on record.

6. It is evident from the records that the petitioner has filed a writ petition in W.P.(MD)No.8442 of 2020, for issuance of a Writ of Certiorari, calling for the records of the defacto complainant relating to S.C.No.1/2019-2020 and to quash the impugned proceedings dated 18.07.2020 impleading the petitioner *suo motu*, as the defendant in the surcharge proceedings, as illegal and that this Court, vide order dated 31.07.2020, has granted an order of interim injunction of all further proceedings.

7. It is also not in dispute that subsequently, the petitioner has filed another writ petition in W.P.(MD)No.9761 of 2020 and also filed a petition in W.M.P.(MD)No.8767 of 2020 seeking an order of interim stay restraining the defacto complainant from executing the order passed in surcharge proceedings in S.C.No.1/2019-2020, dated 03.08.2020 against the petitioner till the disposal of the writ petition and this Court, on consideration of the representation of the learned Counsel for the petitioner, that the defacto complainant has passed the impugned final order in contravention of the interim order made in W.P.(MD)No.8442 of 2020, dated 31.01.2020, passed an order, granting interim stay.

8. As rightly contended by the learned Counsel for the petitioner, the petitioner's name does not find place in the original complaint, nor in the proceedings initiated under Section 81 of the Tamil Nadu Co-operative Societies Act, but the petitioner was included only in the proceedings initiated under Section 87 of the Tamil Nadu Co-operative Societies Act and that she she was also found responsible.

9. As rightly contended by the learned Counsel for the petitioner, though this Court has granted an order of interim injunction, the proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act were continued and a final order was passed on 03.08.2020 mulcting the liability on the petitioner. The learned Counsel for the petitioner would submit that the petitioner is only working as an Assistant in the said Bank and even according to the defacto complainant, when the cashier was on leave, the petitioner was directed to attend the duty of cashier and that too, for six days.



10. As rightly pointed out by the learned Counsel for the petitioner, the complaint was lodged only on the basis of the order passed under Section 87 of the Tamil Nadu Co-operative Societies Act and on that basis, the F.I.R., came to be registered.

11. Considering the facts and circumstances and also the fact that the main accused were already arrested and are under judicial custody and also the fact that the petitioner, is only working as Assistant in the said Bank and is in judicial custody from 18.10.2021 and that the petitioner is not having any bad antecedents as stated by the learned Additional Public Prosecutor, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

12. Accordingly, the petitioner is ordered to be released on bail on her executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Ramanathapuram and on further conditions that;

i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

ii)the petitioner shall report before the respondent Police daily at 10.30 a.m for a period of 30 days and thereafter, as and when required for interrogation;

iii)the petitioner shall not tamper with evidence or witness.

iv)the petitioner shall not abscond during trial.

v)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].

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

sd/-
02/12/2021

/ TRUE COPY /

/ /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 NO.I,
RAMANATHAPURAM.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE OFFICER-INCHARGE,
WOMEN PRISON, MADURAI.
4. THE INSPECTOR OF POLICE,
CCIW, RAMANATHAPURAM.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.I.RABERT CHANDRAKUMAR, Advocate (SR-8774[I] dated 02/12/2021)

ORDER
IN
CRL OP(MD) No.18476 of 2021
Date :02/12/2021

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USK/PN/SAR-IV/ (06.12.2021) 4P-7C