



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.6264 of 2022

G.KANDASAMY

[PETITIONER / ACCUSED]

Vs

THE INSPECTOR OF POLICE
CCIW THIRUVALLUR,
(COMMERCIAL CRIME INVESTIGATION WING)
THIRUVALLUR DISTRICT.
(CRIME NO.NOT KNOWN OF 2022)

[RESPONDENT]

For Petitioner : M/S.R.C.PAUL KANAGARAJ Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 406 and 420 of IPC in Crime No.Not Known of 2022 on the file of the respondent police, seeks anticipatory bail.

2. Pursuant to the findings of the Section 81 of the Co-operative Society Act Proceedings, an FIR has been registered against this petitioner who is the President of the Co-operative Society. The summon and substance of the report is that during the year 2013, 2014, 2015 and 2016, totally Rs.19,88,294/- has been misappropriated from the sale proceeds of LPG cylinders through the Co-operative Society outlet for which, the Salesman, Saleswoman, Junior Assistant as well as the president were found guilty and as per report, this petitioner along with Lakshmi who is arrayed as A3 has misappropriated a sum of Rs.1,52,588/- . Taking this report under Section 81 of the Co-operative Society Act, Criminal Proceedings has been initiated against this petitioner and three others for offence under Sections 408, 477A of IPC.



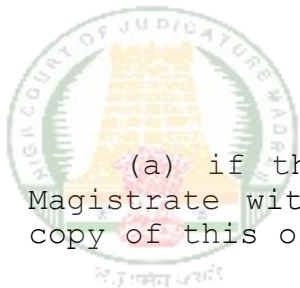
3. The learned counsel for the petitioner has submitted that the petitioner has not committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. The learned counsel for the petitioner further submits that the petitioner who is the President of the Society and working at Thiruvallur and Outlet at Uthukottai and all the misappropriation had been done by the Staff at Uthukottai and a president, he has no role in the misappropriation and even in the 81 enquiry report, the petitioner herein against the order passed by the Co-operative Sub-Registrar under Section 81 of the Co-operative Society Act dated 09.08.2017, proceeding was initiated upon the report of CSR under Section 81 of the Act and the Deputy Registrar of the Co-operative Society has come to conclusion that this petitioner has no role in the misappropriation and exonerated. Therefore, for the loss to the society, others who were handling the cash and accounts directly are responsible. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) has submitted that the on registration of complaint, investigation has been conducted and the first accused was arrested and he has given confession statement wherein he has implicated this petitioner for all the misappropriation and he has stated that from the year 2015 to 2017 when he was working as Salesman at Uthukottai LPG Society, this petitioner through his Agents used to get sales proceeds periodically and the entire misappropriation of Rs.18,29,329/- was given to him on various occasions. So referring the confession Statement of the petitioner / this first accused, unless the petitioner is confined in prison it is difficult to recover the money.

5. Per contra, the learned counsel for the petitioner submits that while departmental enquiry has clearly exonerated the petitioner herein, after change of Government the confession statement of A1 was recorded on 11.03.2022 implicating the petitioner herein which goes even contrary to the conduct and confession of other accused who has admitted the guilt and paid the money.

6. Taking note of the submissions and the available records and the submissions made by both counsel, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of 15 days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court-I, Thiruvallur on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One lakh only) , with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:



(a) if the petitioner failed to surrender before the concerned Magistrate within a period of 7 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioner shall deposit a sum of Rs.2,50,000/- (Rupees Two lakhs fifty thousand only) to the credit of Crime No.1 of 2022 before the learned Judicial Magistrate- I, Thiruvallur;

(c) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner shall report before the Investigation Officer as and when required for an interrogation ;

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

(f) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner is 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

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

-sd/-
24/03/2022

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.I, THIRUVALLUR



2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
CCIW THIRUVALLUR,
(COMMERCIAL CRIME INVESTIGATION WING)
THIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.R.C.PAUL KANAGARAJ Advocate on payment of necessary
charges SR.NO.4623

CRL OP.6264/2022

Date :24/03/2022

JPA 29/03/2022