



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2022

CORAM:

THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN

Cr1.O.P.No.7350 of 2022

Ashok Kumar

.. Petitioner

Vs.

The State rep. by
The Sub Inspector of Police,
Commercial Crime Investigation Wing,
Thiruvannamalai District.
(Crime No.01 of 2022)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail pending investigation in Crime No.01 of 2022 on the file of the respondent police.

For Petitioner : Mr.K.S.Dhinakaran (Senior counsel)
for Mr.E.Balamurugan

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER

The petitioner, who was arrested on 11.03.2022 for the alleged offences under Section 408, 120B, 471, 477A and 420 of IPC in Crime No.01 of 2022, on the file of the respondent police, seeks bail.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent. Perused the CD file.

3.The petitioner was arrested on 11.03.2022 for the alleged offences under Section 408, 120B, 471, 477A and 420 of IPC. The petitioner is arrayed as A5 in the alleged case of jewel loan in Arani Town Cooperative Bank, Arani. It is stated that during the manual audit, it has been found that 77 general jewel loan was sanctioned and a sum of Rs.2,39,03,000/- was sanctioned receiving fake jewels of lesser quality and showing over weight than the actual jewel pledged.



4. In the counter to the bail petition moved by the fifth accused, who was the former President of the Society, the prosecution has stated that the petitioner, who served as President from 11.08.2018 to 09.06.2021 was duty bound to control and to supervise the employees and to maintain all kinds of records and he is responsible for entire income and expenditure of the Bank and monitor against any irregularities and was also responsible for all assets and liabilities of the bank. During the said period, the Assistant/Cashier, who is arrayed as A2, wilfully defrauded and falsified the accounts. The petitioner, who is responsible for over all supervising, has failed to check the fraud and has given post ratification for the loan sanctioned during the monthly meeting.

5. The Section 164 of Cr.P.C statement recorded from the witnesses so far on perusal does not indicate that the loans were sanctioned at the instance of the petitioner but it was sanctioned by the other accused, who were staff of the concerned cooperative society based on the Appraiser report and the said Appraiser is arrayed as A4. Loan has been sanctioned by the Manager A1 and cash was disbursed by the Assistant/Cashier A2, in fact who have physically seen the jewel, appraised the jewels, fixed the eligible loan amount and sanctioned the loan. The petitioner herein has come into picture only subsequently, while reviving the said sanction of loan during the monthly meeting.

4. Since as on date, there is no material to show that the loan was sanctioned at the instance of the petitioner or the petitioner had no knowledge about the furious jewels or over weight of the jewel, this court is of the view that the petitioner is entitled for bail. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thiruvannamalai;

(b) 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;

(c) the petitioner is directed to report before the Investigating Officer as and when required.

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



(e) 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];

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

-sd/-

07/04/2022

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.II, THIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI DISTRICT [FOR INFORMATION]

3 THE SUB INSPECTOR OF POLICE,
COMMERCIAL CRIME INVESTIGATION WING,
THIRUVANNAMALAI DISTRICT.

4 THE OFFICER INCHARGE
SUB JAIL, TIRUVANNAMALAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2CC to M/S.E.BALAMURUGAN Advocate on payment of necessary charges SR.No.5307

CRL OP.7350/2022

Date :07/04/2022

CSK 08/04/2022