



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Sixth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL ORIGINAL PETITION No.12623 of 2022

S.SAMBASIVAM

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
CCIW CID, DHARMAPURI DISTRICT.
(CR.NO.2 OF 2022)

[RESPONDENT]

For Petitioner : M/S.ARUN ANBUMANI Advocate

For Respondent : MR.C.E.PRATAP, 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 for the alleged offences under sections 409, 467, 471 and 477 A of IPC, in Crime No.2 of 2022, on the file of the respondent police, seeks anticipatory bail.

2.The Deputy Registrar of Co-operative Societies lodged a complaint based on enquiry under section 81 conducted in Morappur Panchayat Union Elementary School Teachers and Employees Cooperative Society. As per 81 enquiry report, the Secretary one Theerthagiri and the petitioner, who is the Headmaster and Ex-officio President of the Society had committed misappropriation by falsifying the accounts to the tune of 2,65,15,757/- out of which, the petitioner along with the Secretary is jointly liable to the tune of Rs.26,50,000/-. Based on Section 81 enquiry, Section 87 surcharge proceedings initiated and hence, on the basis of the report, case has been registered against the petitioner.

3.The contention of the petitioner is that the petitioner was Ex-Officio President of the Society from 2013 to May 2018. The Society had a regular secretary, employee of the Cooperative Department who was incharge of the day to day society activity. The Secretary committed certain defalcation of the society funds and he died in



May 2020 i.e., after conclusion of Section 81 enquiry as well as, pendency of Section 87 surcharge proceedings. Thereafter, on coming to know that the Secretary Theerthagiri is no more, F.I.R. registered against the petitioner. Learned counsel further submitted that the admitted case of the prosecution is that the petitioner is jointly liable to pay Rs.26,50,000/- along with the Secretary Theerthagiri. He further submitted that the petitioner's property was settled in favour of his wife on 01.02.2017 by way of Document No.89/2017 which is valued around Rs.50,87,240/- has now been attached to the name of the Society on 18.03.2019 by Document No.3/2019. Thus, the property which was valued around Rs.50,87,240/- in the year 2017 is now valued more had been attached by societies for realising surcharge due amount of Rs.26,50,000/- is safeguarded. Further, the learned counsel pointed out that in the Section 81 enquiry, it is recorded that the Secretary Theerthagiri had admitted, without the knowledge of the petitioner, he used to prepare documents and misappropriated the amount as and when the dues to be paid, he would make the payment, which is also referred in page No.187 of the typedset and further, the statement of the Secretary given before the Enquiry Officer is referred in page 8 of the typedset. In such circumstances, the petitioner seeks anticipatory bail.

4.The learned Government Advocate (Criminal Side) appearing for the respondent submits that on the basis of 81 enquiry, FIR has been registered. The petitioner along with the Secretary had committed misappropriation and cheated Society to the tune of Rs.26,50,000/-.

5.Heard the submissions made by the learned Counsel appearing for the petitioners and the learned Government Advocate (crl.side) appearing for the respondent.

6. Considering the fact that the petitioner is facing surcharge proceedings to the tune of Rs.26,50,000/- and the fact that already the petitioner's property attached to the tune of Rs.50,87,240/-, this Court is inclined to grant anticipatory bail to the petitioner subject to 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 fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Dharmapuri, 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which the petitions for anticipatory bail shall be dismissed 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 Court concerned 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 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

26/05/2022

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, DHARMAPURI.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI DISTRICT [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CCIW CID, DHARMAPURI DISTRICT.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.ARUN ANBUMANI Advocate on payment of necessary
charges SR.No.8021

CRL OP.12623/2022

Date :26/05/2022

CSK 27/05/2022