



Crl.O.P.Nos.22740 and 24631 of 2023

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The 10th accused in Crime No.2 of 2023 registered by the respondent under Sections 409, 420, 465, 467, 471, 477A and 34 IPC, has filed Crl.OP.No.22740 of 2023 and the 2nd accused in the same crime number has filed Crl.OP.No.24631 of 2023. The entire issue surrounds, Vellarivelli Primary Agricultural Co-operative Credit Society at Vellarivelli in Salem District. The 10th accused is a member of the Executive Committee of the said Society and the 2nd accused is the President of the said Society.

2.It is the case of the respondent/prosecution, that in the said Society, the Executive Committee Members/Board of Governors which would also include the Secretary, Assistant Secretary and the President and also the Executive Committee members had passed resolutions approving grant of loan to farmers for the purpose of growing Crops namely, Turmeric Crop, Tapioco Crop, fertilizers and seeds for those crops. It is alleged that in this manner, they had passed a further resolution approving grant of such loans to about 259 persons. It is very specifically stated that these resolutions were to the direct knowledge of both the petitioners herein. The 2nd accused was the President and the 10th accused was one of the Members, who had passed the said resolution as Executive Committee Member. But unfortunately, loans have not been handed over to the said 259 Members. It had been alleged by the



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prosecution that there were at least 50 non-members to whom loans were advanced and amounts towards the loans were settled by the accused persons. It is also stated that with respect to 76 members to whom loans were actually advanced, resolutions were passed sanctioning loans to be given, but the accused persons had taken away that money.

3.It is contended that in this manner the Society had been put to a total loss of Rs.2,93,35,132. It had been very specifically stated that the 1st accused/Secretary, who is not before this Court is alleged to have misappropriated a sum of Rs.1,91,52,130/-. As regards A2 to A13 are concerned, it had been stated that a total amount of Rs.1,01,83,000/- had been misappropriated. The present petitioner comes within that particular category. With respect to the loan advanced to 76 members but taken away without actually handing the loan amounts to the said individuals/farmers, it is stated that a total amount of Rs.62,79,000/- had been so taken away. It is also stated that the investigation will have to be conducted on all these aspects.

4.It is the contention of the learned counsel for the 10th accused/Member of the Executive Committee that the only role played by the 10th accused was that he participated in the Board of Directors Meeting and had approved the resolution, which had been passed. It had been stated that



the said resolutions were general in nature by approving grant of loan. It had been stated that in this connection, an enquiry was also conducted by the Joint Registrar of Co-operative Society, Salem Region and finding as against the Executive Committee Members of which the 10th accused was a Member, was that they had failed to properly monitor the grant of loan and to prevent misappropriation. It had been therefore contended by the learned counsel that the 10th accused had not actually misappropriated any amount and therefore, the learned counsel urged that anticipatory bail should be granted to the 10th accused.

5.The learned counsel for the 2nd accused/President painted a picture that the 2nd accused is completely innocent of all the allegations. It had been stated that it was the Secretary, the 1st accused, had identified the persons and had sanctioned all the loans. It had been stated that all the farmers would be submitting their respective documents relating to the lands and Aadhaar cards and the other documents to verify their identity. After verifying the identity, if they had lands they would also give the patta documents and after that, the eligibility of those farmers to receive loans had been determined by the Secretary. This list was then forwarded to the Board, where resolutions were passed. After the Board had passed necessary resolutions, the list of beneficiaries would be forwarded to the District Central Co-operative Bank.



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6. It had been contended by the learned counsel for the 2nd respondent that there are Field Officers and Supervisors, who are in place, whose responsibility was to go over to the specific lands to identify the lands, identify the farmers and thereafter, file a report and only then loans were sanctioned. It is therefore contended that the entire procedure had been followed, while sanctioning the loans. Insofar as the cheques which have been signed by the 2nd accused/President is concerned, it had been contended by the learned counsel that the cheques will have to be signed jointly by the Secretary/1st accused and by the President/2nd accused and it was stated that the Secretary had put up the first signature and placing trust in the Secretary, the President had signed those cheques, which led to disbursement of money to the various farmers. The learned counsel stated that in parallel proceedings, the properties worth rupees one crore of the 2nd accused had been attached and it had been stated that the 2nd accused is therefore put to much harassment, though he is innocent of any of the offences. The learned counsel also stated that the respondents had seized all the resolution books and called upon this Court to peruse those resolution books and stated that if those books are perused the role of the petitioners would come to light and it would be evident that the petitioners were not directly involved in any of misappropriation of the Society.



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7.The learned Government Counsel (Crl.Side) for the respondent however, contended that a total amount of Rs.2,92,35,132/- had been misappropriated from the said Society on the premise that loans would be sanctioned and for that purpose, non-members had been included, names and addresses have been given and the entire amounts advanced to such non-members had been taken away, and misappropriated by all the accused. The learned counsel further stated that the actual misappropriation with respect to each one of the accused can be determined only when interrogation is done. Insofar as the present petitioners are concerned, it is stated that it is the specific case of the respondent that a total sum of Rs.1,01,83,000/- had been misappropriated. It is therefore contended that this Court should not grant anticipatory bail to the petitioners herein. Even with respect to the actual members to whom loans were sanctioned, it had been stated that for 76 members a total loan amount of Rs.62,79,000/- had been sanctioned, but the amount had actually been misappropriated.

8.The learned Government Advocate (Crl.Side) further stated that all these issues would have to be examined in detail and that the investigation is at a nascent stage. The learned counsel also stated that the role of the Secretary/A1 alone had been determined that he had individually misappropriated a sum of Rs.1,91,52,130/- and stated that the amounts



misappropriated by each one of the other accused would have to be determined.

9. I have carefully given my attention to the arguments advanced.

10. At this stage, while considering grant of bail or anticipatory bail, it would not be required on the part of this Court to call for the records of the Society and the resolutions passed on each and every agenda of the Board to determine whether the present petitioners are innocent of the offence. The only consideration which this Court will have to examine is whether the investigation could be scuttled if anticipatory bail is granted to them.

11. So far as the 2nd accused is concerned, the very fact that he had signed the cheques along with the Secretary would show that he had authorised grant of loan. Even if it is a fact that he was innocent of the knowledge that the cheques had been issued to various fictitious persons or to persons, who do not deserve the loans, as a President, he has a responsibility to the Society. Every Co-operative Society consist of Members who form a Co-operative Society and each one of them put their capital into the said Society. If there is misappropriation of the amounts of the said Society by disbursing loans to non-members and misappropriation of loans, then every Member of the Society is put to loss.



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12.In the instant case, this Society which is in Salem, viz., the Vellarivelli Primary Agricultural Co-operative Credit Society at Vellarivelli in Salem, had been put to a huge loss of Rs.2,93,35,132/-.

13.The learned counsel for the 2nd accused stated that the immovable properties of the 2nd accused had also been attached. This would indicate that an enquiry is had been made and the role of the 2nd respondent had been determined and it is for that purpose, the properties have also been attached. The President of the Society has the responsibility of every account. The President cannot walk away claiming innocence and ignorance and seeking indulgence of this Court. He is answerable, even if one rupee is misappropriated.

14.So far as A10 is concerned, he is a Member of the Executive Committee and holding that esteemed post of an Executive Committee would also bring with it, various responsibilities and there is a responsibility to ensure that atleast non-members are not given loans. The 10th accused, as a Member of the Executive Committee is answerable for the loss which had happened.

15.The very specific case of the respondent is that A2 to A13 have jointly misappropriated a sum of Rs.1,01,83,000/-. The individual amounts so



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misappropriated by each of them and whether they had actually misappropriated or not can come out only during the course of investigation.

Investigation can be done, only when the respondent has a free hand to interrogate the accused persons. Grant of anticipatory bail would scuttle the investigation. The Court will also have to look at the amount so misappropriated and the loss put to individual members of the Co-operative Society. Loans were to be advanced for the noble object to propagate the growth of crops like Turmeric Crop, Tapioco Crop, and for purchasing fertilizers and seeds. These amounts have been misappropriated. The very purpose for the Society had been formed had been interfered with and all the accused will necessarily have to be held answerable for the loss, I am not inclined to grant anticipatory bail. Hence, both the petitions are dismissed.

16. Accordingly, Crl.O.P.Nos.22740 and 24631 of 2023, stands dismissed.

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