Crl.O.P.No.10300 of 2024

RMT. TEEKAA RAMAN., J.

The petitioner who is arrayed as A.9 apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 409, 420, 465, 467, 471, 477A and 34 of IPC, registered in Crime No.2 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant Mrs.Muthu Vijaya, Deputy Registrar, Co-operative Society, Sankagiri Range, Sankagiri, Salem District lodged a complaint before the Superintendent of Police, Economic Offence Wing, Chennai to take necessary action based on the enquiry report submitted u/s 81 of the Tamil Nadu Co-operative Societies Act 1983 in connection with misappropriation of funds of Rs.2,03,35,132/- in S.877 Vellarivelli Primary Agriculture Co-operative Credit Society Ltd., by A.1 to A13 in their respective capacities during the period from 20.05.2017 to 19.05.2020 in the above Society. Enquiry u/s 81 of the Tamil Nadu Co-operative Society Act 1983 was conducted by the Enquiry Officer/Sub Registrar, Co-operative Society, Konganapuram and it reveals that the above accused persons including the petitioner (A.9) have committed financial fraud

to the tune of Rs.2,3,35,132/- by creating false loan records and looted the money in the name of other persons and all the accused are jointly responsible for the above mentioned fraud and hence the complaint.

3. Based on the above complaint of the defacto complainant and materials documents submitted by him, the Economic Offence Wing, Salem has registered a case in Crime No.2 of 2023 under Sections 409, 420, 465, 467, 471, 477 (A) r/w 34 of IPC against A1 to A13 including the petitioner (A.9) on 09.07.2023.

4. The prime allegation against the petitioner, based upon the preliminary investigation conducted by the Investigating Officer, is that, in the capacity as an Executive Member of the Society, all the accused are collectively incharge of the administration of the Society and as against 259 applications that was taken for consideration for grant of loan, names of 37 persons have been changed, resulting in loss of revenue to an extent of Rs.1,01, 83,300/-.

5. This is the second bail application filed by the petitioner and the

earlier petition in Crl.OP No.18662 of 2023 was dismissed by this Court on 23.08.2023 granting liberty to file fresh application after passage of time.

6. The learned Government Advocate (Crl.side) would submit that the petitioner herein is a signatory to the resolution passed by the Society for proposed disbursement of crop loan to 259 persons. Accused 1 to 4, 7 to 13 affixed their signatures in the resolution and, A.5 & A6 have recommended them and have changed the names of 37 persons and embezzled a sum of Rs.39,04,000/- by way of creating false record by making false entries. Part of loan amounts have been disbursed to the concerned persons and as such, the accused have committed a fraud to the tune of Rs.62,79,000/- and the total misappropriation is Rs.2,93,35,132/-.

7. Mr.S.T.S.Murthi, learned Senior Counsel appearing for the petitioner would contend that the petitioner herein is only a Member in the Executive Committee of the concerned Credit Society at Salem and A.1, A.3 & A.6 were initially arrested and subsequently released on bail on 09.10.2023, and 10.10.2023. A.2 was granted regular bail by this Court in Crl.OP No.7660 of 2024 on 15.04.2024 and further contended that A.6 &

A.7 Field Manager and Vice President respectively were granted bail and A.1 & A.2, Secretary and President respectively were also granted bail. He drew my attention to the Surcharge proceedings of the Co-operative Department issued under Section 81 of the Tamil Nadu Co-operative Societies Act wherein no findings was arrived at by the Enquiry Officer against the petitioner herein for alleged wrongful gain of money. He also drew my attention to the typedset of papers and contended that allegation against this petitioner and 12 others are only to an extent of Rs.1,01,83,000/-.

8. Heard the learned counsel for both sides and perused the records.

9. Taking into consideration the submissions of the learned Senior Counsel appearing for the petitioner and also the fact that the other co-accused who are primarily responsible for the disbursement of the amount are already granted bail and in the surcharge proceedings referred to above, no finding was arrived at by the Enquiry Officer against the petitioner herein for alleged wrongful gain of money, I am inclined to grant anticipatory bail to the petitioner. 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 is made ready before the learned Judicial Magistrate No.4, Salem, 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 petition for anticipatory bail shall stand 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 Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity.

[b] the petitioner shall deposit a sum of Rs.12,00,000/- (Rupees Twelve Lakhs only) to the credit of Crime No.2 of 2023 within a period of 4 weeks from the date of receipt of a copy of this order.

[c] the petitioner shall co-operate for investigation and appear before the respondent police for a period of eight weeks and thereafter, as and when required ;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

07.06.2024

rgr

RMT. TEEKAA RAMAN., J.

rgr

order in
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