



Crl.O.P.No.26968 of 2023

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**C.V.KARTHIKEYAN, J.**

The petitioners/A1 to A3 seek anticipatory bail in Crime No.2 of 2023 registered by the respondent Police for the offences punishable under Sections 409, 420, 465, 467, 471, 477(A) of IPC r/w under Section 34 of IPC.

2. The first petitioner is the Secretary of Vellerivelli Primary Agricultural Cooperative Credit Society at Salem District and the second Petitioner is the member of the Society and the third petitioner had died and therefore charges against him have abated.

3. It is the case of the prosecution that the Society, had advanced loans to fictitious persons to a total amount of Rs.2,93,35,132/-. Even before examining the issue further, it must be kept in mind that the object of any co-operative society is for members of the society to subscribe and benefit from the profits earned by the society. Therefore, any loss would directly



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affect, each and every member of the society. If any amount is unlawfully disbursed as loan, then every member of the Co-operative Society would suffer loss.

4. In the instant case, the learned counsel for the petitioner pointed out that it was intention of the society to disburse agricultural loan to about 37 farmers.

5. It is contended by the learned counsel that the list of farmers would be first prepared by the field officer and thereafter, the field officer would put up the said list before the Secretary of the Society. There is an obligation to verify whether the names are genuine and whether they are actually farmers and whether they also have lands. In this regard, to verify the lands holdings, the revenue records will also have to be annexed with the names of each one of the farmers. This particular list is then forwarded to the Board for passing resolution to approve disbursement of loan to each one of them. After the resolution is passed, the resolution is forwarded back to the Secretary who should forward it to the Central District Cooperative Society and on their approval, the amounts are disbursed.



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6. The learned counsel for the petitioners stated that after receiving the resolution from the Board, the first petitioner/Secretary had replaced the names with fictitious names and had forwarded that list to the District Cooperative Society and on getting their approval, he had siphoned of the entire amount. To that extent, the Secretary is liable. But the amounts are actually disbursed only when cheques are issued. In every Cooperative Society cheques are issued only after they are signed by two separate individuals. One is the Secretary and the other is the President. Therefore, the role of the President does not stop with passing the resolution. The resolution gives the list of the names. If the cheques are issued in the names of other persons then a duty is cast to question as to why a person for whom resolution was not passed was being disbursed with money. If no question had been raised, it would only imply that the money floated back to everybody.

7. The learned Counsel for the petitioners stated that this case, it was the Secretary who was totally liable for the entire misappropriation of the amounts. It is also contended that he had also deposited back substantial



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sums of money. But it would not erase away the criminality of the act done of disbursing loans to fictitious persons, paying back the amount misappropriated does not compound that particular offence.

8. It is contended by the learned counsel for the petitioners that the petitioners are innocent and therefore, this Court should grant anticipatory bail.

9. It is also contended that the first petitioner had been arrested even when application seeking anticipatory bail is pending. It can be very clearly stated that when commission of a cognizable offence is alleged, then the investigating officer has every right to take the accused into custody whether any application seeking anticipatory bail is filed and pending before any Court unless there is a specific order granting protection. Otherwise, no Court can prevent a public official from discharging their duty particularly in matters relating to offences against the State and more importantly when the matter relates to misappropriation of amounts and very significantly misappropriation of amounts within a Cooperative Society. It must be kept in mind that it is small time farmers who are members of the society and they



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suffered a loss of Rs.2,93,00,000/-. The individual burden would be substantive in each of them. Investigation will have to be done.

10. Taking all those factors into consideration, I am not inclined to grant anticipatory bail. Accordingly, this Criminal Original Petition stands dismissed.

02.02.2024

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