

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHIRCY V.

MONDAY, THE 20TH DAY OF DECEMBER 2021 / 29TH AGRAHAYANA, 1943

BAIL APPL. NO. 9680 OF 2021

CRIME NO.242/CN/TSR/D/2021 OF CBCID, THRISSUR, Thrissur

AGAINST THE ORDER IN CRMP 4469/2021 OF JUDICIAL MAGISTRATE OF FIRST

CLASS ,IRINJALAKUDA

PETITIONER/ACCUSED NO.4:

K.K.DIVAKARAN, AGED 75 YEARS
S/O. KRISHNAN .K.K., KATTILAPPARAMBIL HOUSE, MADAYIKONAM
VILLAGE AND DESOM, MADAYIKONAM P.O., MUKUNDAPURAM TALUK,
THRISSUR DISTRICT 680 712.

BY ADVS.
V.A.HARITHA
K.PADMARAJ

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADVS.
ADDL.DIRECTOR GENERAL OF PROSECUTION
SR. ADV. SRI. GRASHIOUS KURIAKOSE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
20.12.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Dated this the 20th day of December, 2021

The petitioner, who is arraigned as the 4th accused in Crime No.242/CB/TSR/D/2021 of Crime Branch, Thrissur registered for the offences punishable under Sections 406, 409, 420, 423, 465, 468, 471, 120B read with Section 34 of the Indian Penal Code has moved this application for his release on bail.

2. The petitioner has been in custody since 29.10.2021.

3. The gravamen of the prosecution case is that, with the fraudulent intention to cheat the defacto complainant, accused Nos. 1 to 3 have taken loans in the name of the defacto complainant to the tune of Rs. Two Crores without his consent or knowledge by submitting forged documents and used the amount for their own needs. Thus by committing criminal breach of trust, cheating and forgery, they have gained pecuniary advantage and caused corresponding monetary loss to the bank and its genuine customers.

4. The learned counsel for the petitioner has contended that the petitioner is innocent and he is falsely implicated subsequently due to political pressure. The actual misappropriations were done by the accused Nos.1 to 3. An enquiry was conducted by the Unit Inspector, Assistant Registrar General (Co-operative Department), Irinjalakuda regarding the loan transaction and on the basis of the recommendation the Board of Directors formed a disciplinary committee and an enquiry was conducted and accused Nos.1 to 3 were suspended at the instance of the Board of Directors and decided to initiate criminal proceedings. The loans were sanctioned without the recommendation of the Director Board members and the entire malpractice was committed by the accused Nos.1 to 3 without the knowledge of the Board of Directors. It is further submitted that he is a senior citizen. But he is languishing in jail for no valid reason. Therefore, this application for his release on bail.

5. The learned ADGP opposed the application contending that the investigation of the case has not been completed.

6. At the outset it is required to be noted that this bank is governed by a bye-law. As this is a Co-operative Society the provisions of the Co-operative Societies Act and Rule are also applicable for the management of the Bank. The offences are alleged to have been committed by persons in charge of the Bank and responsible for the conduct of business of the Bank. Prima facie it is revealed that the board of directors have to act only as per the bye-law. The jurisdiction of the bank extends only to Porathissery, Madayikonam and Irinjalakuda villages. Membership will be given as per clause 5(a) only to those who are permanently residing there or regular employees within that area.

7. Doubtless that the nature and gravity of the accusation levelled against the petitioner is very serious and grave. Prima facie it is revealed that this petitioner, a member of board of directors has colluded with the other accused to commit forgery, and to manipulate the accounts and thus to cheat the Bank for wrongful gain. Since huge amount is involved in this scam, the investigating agency requires time to unearth all the details

involved in the case. Scientific examination with the help of technical experts is also required to ascertain the real gravity of the offence alleged against his petitioner as well the other accused.

But the petitioner is a senior citizen and is suffering from various ailments. Therefore, taking into account his health condition and also the fact that the petitioner is undergoing incarceration since 29.10.2021, I am inclined to release him on bail subject to the following conditions:

- (i) The petitioner shall be released on bail on his executing bond for a sum of Rs.5,00,000/- (Rupees five lakhs only) with two solvent sureties for the like sum each to the satisfaction of the court having jurisdiction.
- (ii) The petitioner shall deposit a sum of Rs.2,00,000/- before the Jurisdictional Court within two weeks of his release.
- (iii) The petitioner shall appear before the Investigating Officer for interrogation as and when required by him, in writing, till filing of the final report.
- (iv) The petitioner shall not leave the state of Kerala without prior permission of the jurisdictional court.

(v) The petitioner shall not enter into Karuvannur service Co-operative Bank or in the supermarket run by the bank and in the branches, if any.

(vi) The petitioner shall surrender his original passport before the court concerned. If he is not holding a passport, he shall file an affidavit regarding the same before the court, within a week of his release on bail.

(vii) The petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.

(viii) The petitioner shall not commit any offence while on bail.

In case of violation of any of the above conditions, the Jurisdictional Court is at liberty to cancel the bail in accordance with the law.

Sd/-

**SHIRCY V.
JUDGE**

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