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Ganga Devi MM vs State of Kerala Represented by the Public Prosecutor High Court of Kerala

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Court : Kerala

Decided On : Jan-04-2023

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./10594/2022

Appellant : Ganga Devi MM

Respondent : State of Kerala Represented by the Public Prosecutor High Court of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM WEDNESDAY, THE 4TH DAY OF JANUARY 2023 / 14TH POUSHA, 1944 BAIL APPL. NO. 10594 OF 2022 Crime No.552/2022 of Nedumudi Police Station, Alappuzha District PETITIONER/ACCUSED: GANGA DEVI MM AGED 38 YEARS D/O MUKUNDAN MANNASSERIL THOTTUVATHALA PO KAINAKARY ALAPPUZHA (DIST), PIN - 688501 BY ADV M.RAJESH RESPONDENT/STATE: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF

KERALA HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 2 THE INSPECTOR OF POLICE NEDUMUDI POLICE STATION NEDUMUDI PO,ALAPPUZHA (DIST), PIN - 688505 OTHER PRESENT: PP - SRI. M.C.ASHI THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A. No.10594 of 2022 :2:

VIJU ABRAHAM, J.

-- -- -- -- -- -- -- -- -- -- -- -- -- B.A. No.10594 of 2022 -- -- -- -- -- -- -- -- -- -- -- -- -- -- -- Dated this the 4th day of January, 2023

ORDER

This is an application for anticipatory bail.

2. The petitioner is the sole accused in Crime No.552/2022 of Nedumudi Police Station, Alappuzha District, alleging commission of offence punishable under Section 420 of the Indian Penal Code.

3. The prosecution allegation is that, an audit was conducted

by the defacto complainant in respect of the above Bank for the financial year 2020-2021 and an audit objection was noted that despite having sufficient employees according to its classification of the Bank, an amount of Rs 1,12,400/- was utilized in contingency head for data entry operation and accordingly a voucher had been made in the name of one Chinnu Premdev. However, during the limited audit period of the defacto complainant, the said employee has neither visited the Society nor found to have engaged in any such works. Hence the petitioner, while working as Secretary in the above Co-operative Bank and with the intention to cause illegal loss to the Bank for the period from 01.04.2020 to 31.03.2021,

B.A. No.10594 of 2022 :3: caused loss of Rs 1,12,400/- due to misappropriation in data entry operation in Contingency head and thus committed the aforesaid offence. 4 .The learned counsel for the petitioner submitted that the

allegations of the prosecution is absolutely false. The daily wage employee in question was appointed by the Board of Directors as per the decision taken in annexure 2 Minutes dated 21.03.2015 and that thereafter she has been working as a data entry operator till November 2021. It is also submitted that as per annexure 3 decision of the Managing Committee, the wages of the said daily wage employee had been increased from Rs.300/- to Rs.400/-. The petitioner handed over a copy of the enquiry report by the Assistant Registrar(General), Kuttanad dated 16.06.2022 and based on the said report it is contended that, there is a valid appointment by the Managing Committee and the amounts had been paid, only in accordance with the decision taken by the Managing Committee of the Society.

5. The learned Public Prosecutor opposed the application for

bail mainly contending that the aforesaid allegations are only for the period from 2020-21, inasmuch as there is nothing to show that the aforesaid employee, Smt. Chinnu Premdev was working in the B.A. No.10594 of 2022 :4: society at the relevant point of time.

6. Having regard to the facts and circumstances of the case

and considering the nature of the allegations, I am of the opinion that custodial interrogation of the petitioner may not be required for the purpose of investigation and only a limited custody be granted for the same. Therefore, I am inclined to grant bail to the petitioner subject to stringent conditions. In the result, this application is allowed. It is directed that the petitioner shall

surrender before the investigating officer on 10.01.2023, at 11 a.m, and subject herself for interrogation on that day and on any other day/days as directed by the investigating officer. The petitioner shall co-operate with the investigation. In the event of arrest in Crime No.552/2022 of Nedumudi Police Station, Alappuzha District, she shall be produced before the jurisdictional Court on the very same day and shall be released on bail, subject to the following conditions:-

(i) Petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like-sum to the satisfaction of the

jurisdictional court ;

(ii) The petitioner shall appear before the B.A. No.10594 of 2022 :5: investigating officer in Crime No.552/2022 of Nedumudi Police Station, Alappuzha District , on every Saturday, at 11 am, until the filing of the final report;

(iii) Petitioner shall appear before the investigating officer in Crime No.552/2022 of Nedumudi Police Station, Alappuzha District as and when summoned to do so;

(iv) The petitioner shall not attempt to contact the

victim or the defacto complainant or interfere with the investigation or to influence or intimidate any witness in Crime No.552/2022 of Nedumudi Police Station, Alappuzha District;

(v) The petitioner shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the

investigating officer in Crime No.552/2022 of Nedumudi Police Station, Alappuzha District may file an application before the jurisdictional Court, for cancellation of bail. It is made clear that it is within the power of the police to investigate the matter and if necessary to effect recoveries on the B.A. No.10594 of 2022 :6: information if any given by the petitioner, even when the petitioner is on bail as per the judgment of the Apex Court in Sushila Aggarwal and others v. State(NCT of Delhi) and another(2020(1)KHC 663). Sd/- VIJU ABRAHAM JUDGE sm/

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