

**MOHAMMED NIAS C.P., J.**

B.A.No.5661, 5948, 5950, 5952, 5956 & 5959 of 2023

Dated this the 21st day of December, 2023**ORDER**

Apprehending arrest in Crime No.726/2023 of Maranalloor Police Station, Thiruvananthapuram District, registered for offences punishable under Sections 420 and 409 and r/w section 34 of the IPC accused have filed this application under Section 438 of the Code of Criminal Procedure.

2. The petitioners are accused Ns.1 and 2 in Maranalloor police station Crime No.726/2023 u/s Section 420, 409 & 34 IPC. They served as the President and secretary of Kandala Co-operative Bank Ltd.No.197. With the intention to deceive the complainant, the petitioners dishonestly induced the complainant to invest money in Kandala Co-operative Bank by promising a higher interest rate for investment. By believing their words, the complainant deposited Rs.10,00,000/- on 27.06.2012. Rs.4,45,000/- on 6.9.2018, Rs.4,45,000/- on 5.9.2018 and Rs.2,00,000/- on 3.3.2023 with sum of Rs.21,00,000/-. After the completion of the investment tenure, the complainant was not paid the promised amounts. Thus, petitioners have committed an



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offence under the above sections by cheating and deceiving the complainant by not paying the deposit amount despite several demands.

3. As per the direction of this Court, the details such as the names of the accused, the amount involved, involvement of each accused and the stage of investigation in BA Nos.5661, 5948, 5950, 5952, 5956 & 5959 of 2023 were furnished as shown below:

Sl. No	BA Nos.	Name of accused	Amount involved	Involvement of each accused	Stage of investigation
1	BA 5661/2023 CrimeNo.726/23 U/s:420,409 & 34 IPC & 3 R/w 21, 5 R/w 23 of BUDS Act	A1 Bhasurangan A2 Baiju Rajan	1950565/-	A1 President A2 Secretary of Kandala Co- operative Society	Under investigation
2	BA 5948/2023 CrimeNo.727/23 U/s:420,409 & 34 IPC & 3 R/w 21, 5 R/w 23 of BUDS Act	A1 Bhasurangan A2 Baiju Rajan	307035/-	A1 President A2 Secretary of Kandala Co- operative Society	Under investigation
3	BA 5950/2023 CrimeNo.744/23 U/s:420,409 & 34 IPC & 3 R/w 21, 5 R/w 23 of BUDS Act	A1 Bhasurangan A2 Baiju Rajan	1500000/-	A1 President A2 Secretary of Kandala Co- operative Society	Under investigation
4	BA 5952/2023 CrimeNo.754/23 U/s:420,409 & 34 IPC & 3 R/w 21, 5 R/w 23 of BUDS Act	A1 Bhasurangan A2 Baiju Rajan	1000000/-	A1 President A2 Secretary of Kandala Co- operative Society	Under investigation



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5	BA CrimeNo.748/23 U/s:420,409 & 34 IPC & 3 R/w 21, 5 R/w 23 of BUDS Act	5956/2023 A1 Bhasurangan A2 Baiju Rajan	1442731/-	A1 President A2 Secretary of Kandala Co- operative Society	Under investigation
6	BA CrimeNo.747/23 U/s:420,409 & 34 IPC & 3 R/w 21, 5 R/w 23 of BUDS Act	5959/2023 A1 Bhasurangan A2 Baiju Rajan	690237/-	A1 President A2 Secretary of Kandala Co- operative Society	Under investigation

4. Learned counsel for the petitioner submits that the bank has a deposit of about Rs.112 crores and a loan outstanding of more than Rs.70 crores. From the monthly deposit scheme (MDS), more than 34 crores is due to the bank. The Bank has got a special sales officer. During the financial year 2022-23, the bank has filed 250 arbitration cases and 204 execution cases for recovering huge amounts. More than Rs.27 crore is liable to be recovered in the arbitration cases, and more than Rs.10 crore is also liable to be recovered in the execution petitions. The Kerala State Farmers Debt Relief Commission has written off more than Rs.10 crore on account of Debt Relief; out of the same, more than Rs.6 crore is due from the Government to the bank. Despite various requests made by the bank to the Government since the amounts were not paid, petitioners filed WP(C)No.16790/2022 before this Honourable court and direction was issued on 30/5/2023 to pay to the bank Rs.3.5 crores within 10 days from 30.05.2023, challenging which the government filed an appeal, and the division bench granted a stay.



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5. Learned counsel for the defacto complainants, who are the depositors, submitted that petitioners are responsible for not getting their deposits back as the accused had misused their funds for oblique purposes.

6. Learned Public Prosecutor opposing the bail application had filed a report stating that huge misappropriation had taken place, which calls for a proper investigation.

7. Heard.

8. It is to be seen that as against the petitioners, an enquiry has been conducted under the provisions of the Kerala Co-operative Societies Act and Rule. The enquiry under Section 65 of the Act clearly showed the various charges against the petitioners, which included unauthorized appointment of staff, unauthorized construction wasting money, unauthorized lending of loans, other unauthorized payments of the society, unauthorized purchase of vehicles and which also specifically indicated the role of the petitioners herein. By proceedings dated 9.10.2023, the State Police Chief has already transferred 56 cases registered against the President and Secretary to the State Crime Branch. This was necessitated as the cases were registered in connection with the financial fraudulent activities committed by the accused, who swindled away crores of rupees of the depositors kept as fixed deposits in the said bank and thus cheated the depositors. Since it was found that the



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financial fraud committed by the accused was more than six crores, the cases were transferred to the Crime Branch. In such a case, an in-depth enquiry is certainly warranted.

9. As held by the Supreme Court, the cases concerning economic offences must be treated as separate by their very nature. The grant of anticipatory bail will frustrate the investigating agency in interrogating the accused and collecting useful information and materials that might have been concealed. Success in such interrogation would delude the accused knows that an order of court protects him. Grant of anticipatory bail, therefore, in such economic offences would certainly hamper an effective investigation. The charges being multiple, I do not think that this is a case where section 438 Cr.p.c can be invoked. Such economic offences always involve a deep-rooted conspiracy, including huge loss of funds, and they cannot be treated at par with the other offences. The apprehension of evidence being tampered with and witnesses being influenced/intimidated are all factors against the petitioners herein.

Given the allegation against the petitioners that the entire amount of money was dealt and misappropriated by the accused and that the transactions include crores of rupees, the arrest, custodial interrogation and details regarding how the money was dealt with are very much essential for a proper investigation. Their responsibility in collecting deposits and misappropriating the same could not be treated lightly to enlarge them on



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pre-arrest bail. Since the details of the amount collected, where the money has been parked, etc., are inevitable parts of an impartial investigation, to lead to a meaningful prosecution, granting anticipatory bail in these cases would certainly defeat that objective. I do not find any merit in the applications and the applications will stand dismissed.

Sd/-

MOHAMMED NIAS C.P.

JUDGE

dlk 18.12.23