CRL.O.P.No.7968 of 2016

S.VAIDYANATHAN,J.

Apprehending arrest at the hands of the respondent police for the alleged offences punishable under Sections 120-B read with Sections 420, 468 and 471 IPC in Crime No. RC 06(E)/2016 on the file of the respondent police, the petitioners have come forward with this petition seeking anticipatory bail.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent police.

3. It is submitted by the learned counsel for the petitioners that the Indian Bank is the complainant and the petitioner has been falsely implicated in this case and that the first petitioner is the Managing Director and rest of them are Directors.

4.It is the case of the prosecution is that the petitioners have siphoned of public money to the extent of Rs.42.17 crores by

(a)Depletion of stock/diversion of funds by the directors/company without the knowledge of the Bank.

(b)Falsification of Receivable/diversion of receivables by the directors/company.

(c)Availing credit facility by cheating by submission of fabricated Audited Balance Sheets to the Bank with inflated figures by the directors/company.

(d)Forgery by the directors/company by filing of different balance sheets with ROC for the relevant period in comparison with Audited Balance Sheet submitted to Bank.

(e)Submission of Audited Balance Sheets to Bank for 2009, 2010, 2011, 2012 and 2013 by the directors / company by forging the signatures of auditors.

(f)Suppression of facts by the directors/company by non-disclosure of statutory dues (Excise Duty) and disputed EB liability to the Bank.

(g)The loss caused to Bank is due to the criminal acts of the company and its directors and not due to business loss;

5.According to the petitioners, they have not committed any such offence as stated above and inspite of the best efforts, the business started to run in loss and having no other option, they were forced to close the company. The company was in existence from the year 1995 and was running without any problem and without any financial crisis. Only based on the performance of the Company, the de-facto complainant Bank had advanced several crores of rupees as loan. Due to fall in the market of steel internationally, the petitioner Company suffered crunch and it became sick.

6.The learned counsel for the petitioners contended that the petitioners have sold one of the properties and paid the money to the Bank. SARFAESI proceedings have been initiated and that all the properties are in possession with the financial institution.

7.The respondent has filed a detailed objection contending that the balance sheets of the company have been forged for the financial years 2008-2009, 2009-2010, 2011-2012 and 2012-13, which are said to have been signed by one B.V.Venkateshan and using them as genuine and knowing well that they are forged, the loan proceeds have been diverted for other purposes than intended and thereby, a wrongful loss to the tune of Rs.42.17 crores was caused to Indian Bank Tiruchengode Branch. It is further pointed out that due to different sets of balance sheets produced before the Registrar of Companies and bank containing fabricated financial figures, the Company had declared stocks of Rs.9.75 crores, Trade Creditors as Rs.2.58 crores and receivables as 40.36 crores as on 31.03.2014 in the statement. It was noticed that the Unit was not functioning and stock was Nil and other receivables could not be ascertained. The Company did not pay the Central Excise Duty to the tune of Rs.14.60 crores inclusive of the dues, penalty of interest up to 11.09.2014. The statutory dues are not shown in the balance sheet. On the search conducted in the office premises of the accused, the incriminating documents and material objects were seized.

8.The petitioners have caused huge wrongful loss to the tune of Rs.42.17 crores and consequent wrongful gain to themselves. The money availed by the petitioners is public money and that CBI should be allowed to carry out thorough investigation the multi crore fraud against the petitioners and others. The contention is that they are required for interrogation or even custodial interrogation for fair and thorough investigation.

S. VAIDYANATHAN, J.

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9.In view of the above, I find that the respondent was right in contending that they are in need to examine the witnesses and collect the documents and if the petitioners are granted bail, they may flee out of the country and hamper the witnesses and tamper the evidences. Hence, I do not find any reason to grant anticipatory bail to the petitioners.

Accordingly, this petition is dismissed.

Vsg 28.06.2016

CRL.O.P.No.7968 of 2016