HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8351 OF 2018

ORDER:

The petitioner is A.4 among several accused of crime No.RC 02(A)/2018 dated 27.03.2018 on the file of CBI, Visakhapatnam, registered for the offences punishable under Sections 120-B, 420, 468 r/w 471 IPC and Section 13(2) r/w 13(1)(d) of PC Act. It is in relation to the availment of the loans from the IDBI Bank, Rajahmundry Branch, East Godavari District during 2009-12 from the report of the General Manager, BP Kumar (Senior Regional Head) IDBI, Visakhapatnam Office the crime is registered.

A perusal of the report shows there is large scale fraud in the processing and sanctioning of the loans under KCC/short term loan for construction of ponds or tanks by the accused persons where the name of the petitioner B.Narayana Rao referred as A.4 among 13 accused in saying they all caused pecuniary loss to the Bank to the tune of Rs.394.59 crores in saying A.1 is the then Chief General Manager and vertical head of ABG who dishonestly enhanced the sanctioned limit to Rs.5 crores though the maximum limit of KCC was only Rs.25 lakhs without knowledge and approval from the competent authority and circulated email to the branch and besides A.1 and A.2 the then DGM directed the branch level officials involved in the processing and recommendation of the loans into submitting positive report in respect of 350 borrowers arranged aforesaid

11 aggregators A.3 to A.13 in which the petitioner is A.4. Subsequently after sanction of loans, the officials were instructed to disburse the loan proceeds to savings account of the beneficiaries without ensuring the end use. Thereby the disbursed loans were diverted from the beneficiaries account by the aforesaid accused by misappropriation. The allegation is so far as loans for the fish tanks concerned, even tanks not in existence and it is outcome of conspiracy between the bank officials and the aggregators A.1 to A.13 supra who created documents by showing falsely as if tanks in existence in the name of the alleged borrowers.

The contentions in the anticipatory bail application of the petitioner with reference to the above in nutshell are that a plain reading of the FIR shows there are no specific allegation against the petitioner-A.4 but for general allegations and if at all there is against A.1 and A.2 officials of the bank regarding showing existence of the fish tanks. It is also averred that the petitioner is aged about 61 years and suffering from hypertension and diabetes and he is ready to furnish solvency and there is no question of any fleeing away and interference with the witnesses, hence to grant anticipatory bail.

The learned Special Public Prosecutor for CBI opposed the anticipatory bail application by saying so far as the petitioner concerned, the present outstanding is 310.90 lakhs as on 28.02.2018 and it was declared as NPA in 2014 April itself by then the outstanding was 185.28 lakhs now increased to what is referred supra and further during investigation of the crime it reveals from the examination of the VRO and revenue records that the survey numbers mentioned in the alleged lease deeds are fake and the lease agreements submitted are not genuine and the loans availed are with fake lease agreement and fake survey numbers and those are not belong to the alleged lessors and it clearly shows privy in creating fake lease agreements for non-existing survey numbers and mortgaged with the bank showing as if there are fish cultivation leased lands and some lands are even that of Government lands not covered by the genuine lease deeds thereby not entitled to the concession of anticipatory bail.

In the course of hearing, learned Special Public Prosecutor submits that though the amount aggregate of 310.90 lakhs mentioned as outstanding as on 28.02.2018 it is from the loan of said B.Narayana Rao, the petitioner-A4 and of his wife and his liability at any cost more than half of the amount. The particulars from the names of the lessors, survey numbers and extents where co-relate and not related furnished as part of the record by learned Special PP in opposing the bail application. This record clearly shows therefrom said allegations that without existence of fish ponds and without genuine lease deeds as if the properties covered by fish tank the loans were availed and it clearly shows the force in the contention of the learned Special PP of dishonest intention from the inception in cheating the bank by using genuine the forged documents.

There is no doubt from the submission of the learned counsel for the petitioner that the loans were of the year 2009-12 whereas the report is of the year 2018 March for 6 years delayed. It is not a case of the crime barred by limitation so far as offence under Sections 420 & 468 IPC since punishable up to 7 years but for the offence under Section 471 IPC. Thereby it is premature further going into the merits and the Court is not able to consider for granting anticipatory bail to the petitioner.

Accordingly, this Criminal Petition is dismissed.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 28.08.2018
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