BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date on which reserved : 23/07/2019

Date on which pronounced:30/07.2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.9984 of 2019

N.Nehru ... Petitioner/Accused No.3

Vs

State Rep.by
The Inspector of Police,
District Crime Branch,
Sivagangai District.
(Crime No.21 of 2019) ... Respondent/Complainant

For Petitioner : M/s.G.Thiruvarutselvan, Advocate.
For Respondent : Mr.V.Neelakandan, Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-
For Bail Petition in Crime No.21 of 2019 on the file of the respondent police.

ORDER : The Court Made the following order :-

This petition has been filed by the petitioner/accused No.3, seeking bail for the alleged offences punishable under Sections 406, 409, 468, 471, 420 and 120(B) of I.P.C.

2.The respondent has filed a counter affidavit opposing this petition.

3.The case of the prosecution is that the petitioner herein, when he was working as Senior Branch Manager of Indian Overseas Bank, Thiruppathur Branch, had conspired with A-1 and A-2 and sanctioned loans to 119 fictitious self-help groups, during his tenure as Branch Manager between the period 26.10.2012 and 17.08.2013, thus, causing an unrecovered loan amount of Rs.2,18,56,000/-. It is also alleged that KYC forms have been obtained by the petitioner without scrutinizing the same. It is also alleged that he has not ensured end use of the loan amount. It is also alleged that the petitioner along with other accused persons have created false documents and fictitious self help group for sanctioning loans besides obtaining subsidy from the Government.

4.The learned counsel for the petitioner has submitted that out of 119 loans, 94 loans were disbursed on a single day i.e on 08.03.2013, due to the compulsion and at the instance of the District Collector and the officials of the Regional Office, Indian Overseas Bank. He further submitted that one Imran was deputed specifically for the purpose of verification of the documents during that time and hence, the petitioner did not verify the said documents. He further submitted that as per the Master Circular, dated 06.07.2013, issued by the Indian Overseas Bank that KYC verification of all the members of self-help groups need not be done, while opening the Savings Bank account as KYC verification of all the office bearers would be suffice and that no separate KYC verification of members or office bearers is necessary at the time of credit linkage of self-help group. He further submitted that the petitioner is aged about 57 years and he has served in the Bank without any blemish. He further submitted that this is the third round of investigation and the earlier round by the CBI and DCB, Sivagangai District has not revealed any material against the petitioner. He further submitted that already, departmental enquiry has been conducted by issuing charge-memo and in the said charge-memo, it is not stated that the petitioner has obtained any pecuniary benefit and on the contrary, the charges were framed only with regard to dereliction of duty.

5. The learned counsel for the petitioner has further submitted that the petitioner has not committed any offence and he has been falsely implicated in the above case. He further submitted that the petitioner was arrested and remanded to judicial custody on 03.07.2019 and from that date onwards, he is in custody. He further submitted that by this time, a major portion of the investigation might have been completed and therefore, he prayed to grant bail to the petitioner.

6.Per contra, the learned Additional Public Prosecutor has submitted that one Tamil Selvi (A-1) who is running M/s.Annam Charitable Trust at Thiruppathur has sponsored the self-help groups to Bank and loans have been obtained in the name of said self-help groups. Nearly 169 self-help groups were found fake. It was came to know that most of the documents were fabricated and created to cheat the Bank and the documents were received by A-2 namely Mr.M.Prem Kumar, without perusing the documents and subsequently, the petitioner took charge as Senior Branch Manager and during his tenure, he sanctioned loan to 119 self-help groups, which were sponsored by the said Tamil Selvi (A-1) and cheated the Bank to the tune of Rs.2,18,56,000/- by using bogus self-help groups. He further submitted that originally, a complaint was lodged before the CBI and since the pecuniary limit does not come within their jurisdiction, they have informed the defacto complainant to lodge a complaint before the respondent and accordingly, a complaint was lodged before the respondent. He further submitted that since the defacto complainant has not submitted the relevant documents, the respondent has closed the earlier complaint and thereafter, the defacto complainant has lodged the present complaint stating that since the relevant documents were in the custody of CBI, he could not produce those documents, during pendency of the previous complaint and now, they are having the relevant documents and if necessary, they will produce the same and considering the said request, the present F.I.R has been registered. He further submitted that this petitioner along with other two accused persons have swindled the huge amount from the Bank and therefore, he strongly opposed this petition.

7.A perusal of F.I.R shows that main allegations are made against A-1, Tamil Selvi. According to the prosecution, the said Tamil Selvi (A-1) was running a Trust by name M/s Annam Trust and the said trust has sponsored 169 fictitious self-help groups, during the tenure of A-2 as Senior Branch Manager and A-2, without verifying the genuineness of the self-help groups, has sanctioned loan of Rs.5,13,72,000/-. Further, during the tenure of present petitioner from 26.10.2012 to 17.08.2013, the said Tamil Selvi (A-1) has sponsored 119 fictitious self-help groups and for them, the petitioner has sanctioned Rs.2,18,56,000/- as loan without verifying the genuineness of the said self-help groups. It is also alleged that the petitioner has not verified the relevant documents, at the time of sanctioning the loan. But it is not stated that the petitioner has obtained any pecuniary interest. In the typed set of papers filed by the learned counsel for the petitioner, the findings of Investigating Officials (departmental enquiry) has been enclosed. In the said findings also, it is not specifically stated that the petitioner has obtained any pecuniary benefit. On the contrary, it has been stated that the petitioner did not verify the relevant documents. It has been further stated that almost all the loan accounts slipped on to NPA inflicting loss of Rs.141.44 lakhs to the Bank, due to non-showing due diligence right from the initial stages of loan perusal, verification of identities, procedural lapses and upto the level of loan release. But, there is no finding that the petitioner has got any benefit by sanctioning the said loans.

8.Taking into consideration of all the aforesaid facts and also the fact that the petitioner is in custody from 03.07.2019 and by this time, a major portion of the investigation might have been completed, this Court is inclined to grant bail to the petitioner, by imposing conditions:-

[a] the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Sivagangai.

[b] the petitioner shall report before the respondent Police daily at 10.00 a.m for a period of one month and thereafter, as and when required for the interrogation.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
30/07/2019

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
1. THE JUDICIAL MAGISTRATE NO.II, SIVAGANGAI.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
   SIVAGANGAI DISTRICT.

3. THE SUPERINTENDENT,CENTRAL PRISON, MADURAI.

4. THE INSPECTOR OF POLICE,
   DISTRICT CRIME BRANCH, SIVAGANGAI DISTRICT.

5. THE ADDITIONAL PUBLIC PROSECUTOR,
   MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.G.THIRUVARUTSELVAN Advocate SR.No.12533

ORDER
IN
CRL OP(MD) No.9984 of 2019
Date :30/07/2019

MS/PN/SAR-4/30.07.2019/4P.7C