IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.02.2020

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 3970 OF 2020

Satyan Kasturi ..Petitioner

- Vs -

1. The Superintendent of Police
   CBI: ACB
   Chennai.

2. The Deputy Superintendent of Police
   CBI: ACB: Chennai.

3. The Chief Immigration Officer
   Shastri Bhavan Annexe Buildings
   No.26, Haddows Road
   Nungambakkam, Chennai.

4. The Assistant Foreigners Regional
   Registration Officer
   Bureau of Immigration
   Anna International Airport
   Meenambakkam Airport
   Chennai- 600 027.

5. The Regional Manager (RBO-1)
   State Bank of India, Regional Business Office
   Region -1, Chennai Zone-2
   Network-1, No.86
   Rajaji Salai, Chennai 600 007. ..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus or any other appropriate writ, or order or directions, forbearing the Respondents from detaining the petitioner at any of the international Airports while departing from India .

For Petitioner : Mr.V.Arunagiri

For Respondents : Mr.K.Srinivasan, Spl. P.P. (CBI Cases) for RR-1 & 2

O R D E R

The petitioner is arrayed as A7. During the period 2014-2016, the 1st accused company was sanctioned term loan for the purpose of erection of production of wind energy. The petitioner, along with two other persons, were the Directors of the said company. The 1st petitioner, though an Indian born, had migrated and settled in Australia and is also an Australian citizen. It is the case of the respondents that the petitioner, along with the other accused, had misused the amounts sanctioned as term loan to the tune of Rs.31,99,72,733/- and instead of using it for the purpose for which it was sanctioned, had diverted the funds to other entities/sister concern of the 1st accused company. The said fraud has been perpetrated with the connivance of the officials of the bank and detection of the said fraudulent act led to the filing of a complaint by the Regional Manager, (RBO-1), State Bank of India, with the Central Bureau of Investigation, Anti-Corruption Branch, Chennai, which was registered in RC MA1 2019 0018 for the offences u/s 120-B, 406, 420 of IPC and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act against M/s.Connect Wind (India) Pvt. Limited, Chennai and 18 others of whom, one among them is the petitioner herein, who is arrayed as A-7.

2. The present petition has been filed by the petitioner, an Australian citizen forbearing the respondents from detaining him at any of the International Airports while departing from India.

3. The learned counsel appearing for the petitioner submits that the petitioner, who is arrayed as A-7 has nothing to do with the crime committed by the other accused persons. It is the further submission of the learned counsel that the petitioner is an Australian citizen and that the endorsements in the passport of the petitioner reveals that previously the petitioner left India on 13.01.2020 and returned back on 27.01.2020, which clearly reveals that the petitioner has no intent to run away from the prosecution and abscond himself. It is the further submission of the learned counsel that the petitioner, apart from his connection with the 1st accused company, has multifarious business interests around the globe, of which one is a film production unit, which is currently producing a film and the activities of the said business venture requires the petitioner to be out of the country and restraining him from proceeding would hamper his business interest and would cause great loss and hardship financially. The bona fides of the petitioner would be evident from his departing India on 13.1.2020 and returning back on 27.1.2020, which clearly shows that the petitioner is not trying to thwart the prosecution against him. Therefore, it is prayed that the relief, as sought for above, may be allowed.

4. Per contra, Mr.Srinivasan, learned Special Public Prosecutor, appearing for the investigation agency, on instructions, submits that the petitioner and his wife, Mrs. Srividya are Australian citizens. The amount involved in the present case runs to the tune of Rs. 32 Crores. It is the further submission of the learned Special Public Prosecutor that the case was registered in the end of December, 2019 and, thereafter, as submitted, the petitioner had travelled abroad and had returned back and had also appeared before the respondent for the purpose of investigation of 13.2.20 and 14.2.20. However, the course of investigation and the materials collected reveal that there is all likelihood that once the petitioner is allowed to go out of the country, he may not appear before the investigating agency, as he is foreign national and, it would be very difficult to secure his presence for investigation. Without the presence of the petitioner, proceeding with the investigation would be greatly hampered and which will jeopardize the investigation and adversely affect the secured creditor, viz., the bank, which would find it very difficult to recover the amounts due to it. Only in that back drop, the present action has been taken against the petitioner by sending the LOC to the Bureau of Immigration on 13.02.2020, so that the chances of the petitioner making himself unavailable for further investigation is put an end to. Therefore, it is prayed that the prayer as sought for may be declined.

5. Heard the learned counsel appearing for the petitioner and the learned Special Public Prosecutor appearing for the investigating agency and perused the materials available on record.

6. Bank fraud is one of the most innovative white collar crimes that is eroding the economy of the country like a parasite. Day in and day out, it is seen that many entrepreneurs, under the guise of expanding their business for the welfare of the country, are shading their activities and lynching the financial resources of the country. Our country is not new to this gullible concept and has seen many affluent persons, having vast business interests and a good reputation in the eyes of the public, flaying the country's economy and thrown many of the financial institutions into doldrums and have escaped the clutches of law and have safely ensconced themselves in the comfort of heavenly abodes to the detriment of the nation. But for the judicial process, the individuals would be enjoying the fruits of their ill-gotten treasure in the leisure and comfort of their cozy abode. If strict enforcement is not put in place, it would be not only detrimental to the welfare of the country, but would greatly prejudice the financial economy of the country and greatly hamper the progress of the nation. Therefore, it is imperative that the Court's, with iron hands,

curb this menace at the sprouting stage so that it doesn't affect the financial viability of the nation.

7. In the present case, a perusal of the materials available on record reveals and which is not in dispute that the petitioner so also his wife, though born Indian, are presently Australian citizens. Though it is the stand of the petitioner that he had returned back to India after visiting abroad during the 2nd week of January, 2020 and had also appeared before the investigating agency on 13.2.20 and 14.2.20, however, it is seen that only after interrogating the petitioner on 13.2.2020, the alert has been issued by the investigating agency to the Bureau of Immigration on the very same day. The only inference that could be drawn from the said material is that the investigating agency, pursuant to the interaction with the petitioner, in all likelihood, had come across certain pieces of information, which had prompted the investigating agency to issue the said alert. The whole gamut of the facts, on a careful perusal, reveal, that the act of the investigating agency issuing the red alert at this stage, cannot be said to be arbitrary or without any reason. The investigating agency, on collection of materials and taking into account the fact that the petitioner is an Australian citizen and an analysis of the materials, had thought it fit to issue the impugned alert, which cannot be found fault with, considering the past acts of various persons, who had involved themselves in such types of offences. Though the act of other persons similarly placed, who had indulged in such acts cannot be put against the petitioner, however, this Court cannot also lose sight of the fact that the leverage given to such persons had yielded only negative results and, therefore, this Court is unable to accept the submissions advanced on behalf of the petitioner to allow the plea as prayed for.

8. On an overall conspectus of the entire facts and circumstances, this Court is of the considered view that the prayer as made by the petitioner cannot be acceded to and, accordingly, this petition fails and the same is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)MDU

//True Copy//

Sub Assistant Registrar

JRS/GLN

To

1. The Superintendent of Police
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   Chennai.

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MG(CO)
KKV/19/08/2020