IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5286 of 2020

1.G.Sathya Narayanan
S/o.Ganesan
15/37, Devaraj Mudali Street.
Triplicane,
Chennai - 5

2.C.Prabhu
S/o.Chelladurai
No-71, 103rd Street,
14th Sector, K.K.Nagar,
Chennai-78 ... Petitioners

Vs.

State through
The Deputy Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Chennai - 34
(Crime No.RCMA12019A0003 of 2019) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to pass an order directing the release of the petitioners on bail in the even of their arrest in Crime No.RCMA12019A0003 of 2019 pending investigation on the file of the respondent police.

For Petitioners : Mr.T.Naveen Chandar

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor, CBI Cases

O R D E R

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 13(2) read with 13(1)(d) of Prevention of Corruption Act and Sections 120B read with 403, 406, 409, 420, 468, 471, 477A of IPC, in Crime No.RCMA12019A0003 of 2019 seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant V.Chandrasekaran, Asst. General Manager / Zonal Manager, Indian Bank, Zonal Office, Poonamallee is that the Pour Branch which comes under

Poonamallee Zone. The accused persons in connivance with the Branch Manager, Porur Branch defrauded and cheated the Bank and misappropriated the bank funds after availing Open Credit facility (OCC) for non-existing business by producing fabricated documents such as rental agreements, residential address, assets and liabilities statement, ITRs, audit balance sheet, stock statement etc. The main brain behind the fraud was one A.Saravanan who is arrayed as A1 and it was facilitated by the Chief Manager of the Indian Bank, Porur Branch who is arrayed as A23 in this case. Further, the sanctioned amounts have been mostly routed through the Current A/c.No.6556736691, Vadapalani Branch of Indian Bank, which belong to one M/s.Surya Steel Corporation, in which the said Saravanan is one of the Partner. There are totally 23 accused in this case.

2.1. The specific allegation against the petitioners who have been arrayed as A20 and A21 is that by furnishing fabricated assets and liabilities statement along with credit monitoring data issued by the Charted Accountant, have availed Open Cash Credit facility for non existing business. The further allegation is that that they have diverted the funds to various irrelevant accounts instead of utilizing them for the purpose for which, the credit facility was sanctioned by the bank. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and that they have been falsely implicated in this case. He would submit that the petitioners are the partners of M/s.Sathya Enterprises which is situated at No.6/22, Poonamallee High Road, Chennai-29 and that the loan was sanctioned in the name of the said concern. He would further submit that the FIR has been registered on 10.06.2019 whereas, the petitioners had already repaid the loan amount and closed the said Open Credit Facility (OCC) account even before the date of registration of the present complaint i.e. 02.11.2018. He would further submit that they have cooperated with the respondent in the investigation and they have also given necessary statements U/s.164 Cr.P.C. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Special Public Prosecutor would submit that the petitioners have been co-operating with the investigation agency and that they have also given their statement under Section 164(1) Cr.P.C. Before the learned Magistrate. He would further submit that the respondent is also taking steps to take the petitioners as approvers in this case.

5. Taking into Consideration the facts and circumstances of the case and the submissions of the learned Special Public Prosecutor that the petitioners have been co-operating with the investigation and their statements have also been recorded under Section 164(1) Cr.P.C. and that the respondent is taking steps to take the petitioners as approvers in this case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of commencement of the Court's normal functioning, before the learned XI Additional Sessions Judge cum Special Judge for CBI Cases, Chennai, on condition that each petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of one week and thereafter as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond/s, a fresh FIR can be registered under Section 229A IPC.

-sd/-
15/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 XI ADDITIONAL SESSIONS JUDGE
CUM SPECIAL JUDGE FOR CBI CASES,
CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
ANTI CORRUPTION BRANCH,
CHENNAI-34.

+1 CC to M/S. T.NAVEEN CHANDAR Advocate on payment of necessary charges sr No.6269

CRL OP.5286/2020

Date :15/09/2020

RD 24/09/2020