

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2341 of 2021

Raman

... Petitioner

Vs.

State by

The Inspector of Police,
Central Crime Branch,
Bank Fraud Prevention Team,
Vepery, Chennai.
(Crime No.139 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.139 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.C.D.Johnson

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are three accused and the petitioner is arrayed as A1. He was arrested and remanded to judicial custody on 19.01.2021 for the offence punishable under Sections 120B, 420, 465, 467, 468 and 471 of I.P.C. in Crime No.139 of 2020 on the file of respondent, and now, he has filed this petition seeking for bail.

2. The case of the prosecution is that the petitioner has borrowed a loan along with A2 in Indian Bank, Vadapalani Branch, to the tune of Rs.1.25 crores for the purpose of purchasing machineries. Thereafter, without purchasing the same, they have misused the entire loan amount and failed to repay the amount. In the said circumstances, based on the complaint given by the Bank, the criminal case has been registered against the petitioner and he was arrested on 19.01.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for the petitioner submitted that the petitioner has borrowed loan after producing sufficient surety and collateral security more than the loan amount. He would submit that since the petitioner has suffered loss in the business, he could not repay the amount and all of a sudden, the account was also closed. He would submit that the proceedings under SARFAESI Act was initiated and the same is pending. He would also submit that the collateral security furnished by the petitioner is more than the loan amount availed by him. He would further submit that the investigation

is almost completed and he is in jail for more than a month. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent has vehemently opposed this petition on the ground that the petitioner has deliberately obtained a loan by giving false address and also misused the loan amount and he has failed to repay the amount. Hence, the criminal case has been registered against the petitioner. On instructions, she would submit that the proceedings under SARFAESI Act was initiated and now it is pending. She would also submit that the investigation is almost completed and hence, she opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the fact that the petitioner has availed loan after producing sufficient surety and collateral security, now the proceedings under the SARFAESI Act has been initiated, which is still pending, the investigation is also completed, and also considering the period of incarceration suffered by the petitioner from 19.01.2021, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition that the petitioner shall pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) within a period of six weeks from the date of releasing him from prison, if the petitioner fails to comply that condition, the respondent is at liberty to file a petition for cancellation of bail and to 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 learned CCB and CBCID, Metropolitan Magistrate, Egmore, Chennai and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner, on his release from prison, shall report before the respondent police daily at 10.30 a.m. for the period of two weeks and thereafter as and when required for interrogation ;

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

10/02/2021

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 THE CCB AND CBCID METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE OFFICER INCHARGE,
SUB JAIL, SAIDAPET, CHENNAI

5 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
BAND FRAUD PREVENTION TEAM,
VEPERY, CHENNAI

CC to M/S.C.D .JOHNSON Advocate on payment of necessary charges
Sr.1394

CRL OP.2341/2021

Date :10/02/2021

RVR 11/02/2021