



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.No.6914 of 2021

WEB COPY

1.R.S.Sumathe
2.S.Sulochana

...Petitioners

Versus

The Central Bureau of Investigations,
ACB, Chennai.
FIR No.RC0322021A0003

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of apprehending arrest in the FIR No.RC0322021A0003 dated 23.03.2021 pending before the respondent.

For Petitioners : Mr.K.M.Vijayan for Ms.R.T.Shyamala

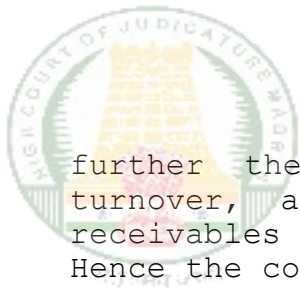
For Respondent : Mr.K.Srinivasan
Special Public Prosecutor for(CBI Cases)

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Section 120B r/w Section 420 and Section 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act, in FIR No.RC0322021A0003, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that A1 is the Firm; A2 is the Managing Director of the Firm and A3 & A4 are the wife and mother of A2. A1 had obtained financial assistance from the Punjab National Bank to the tune of Rs.9.75 Crore with a sub limit of Rs.3 crores, for which, the accused 3 and 4 stood as guarantors and they executed the loan security documents (Collateral Security) for obtaining the loan. Since the accused persons had defaulted in repaying the loan amount, the Bank had initiated the debt recovery proceedings against the accused persons.

3. Allegation against the petitioners herein is that they had entered into a criminal conspiracy with unknown bank officials including empanelled Valuer and overvalued the collateral security in their names for sanctioning and enhancing of credit facilities and



further the borrower firm did not submit details of business turnover, audited balance sheets, stock statements, book debts, receivables etc., to the Bank and also failed to settle their dues. Hence the complaint.

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4. The learned counsel appearing for the petitioners submitted that the petitioners were not incorporated as partners in the Firm. However in the complaint, it has been wrongly stated that they are the partners of the said Firm. It is a true fact that the petitioners are only guarantors to the loan amount, as they had given their property as collateral security for securing loan from the bank and not partners and they never signed any documents in the capacity of partners. Hence, the learned counsel submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case and therefore, prays to grant anticipatory bail to the petitioners.

5. The learned Government Advocate (Crl.Side) submitted that the investigation conducted so far reveals that the accused persons have not utilised the loan for the running of A-1 firm, but they had utilised the loan by diverting the entire funds to various related firms for siphoning of the same by entering into a criminal conspiracy with unknown bank officials including empanelled Valuer and overvalued the collateral security in their names for sanctioning and enhancing of credit facilities.

6. In response to the same, the learned counsel appearing for the petitioners submitted that the allegation against the petitioners herein that they have colluded and overvalued the value of the property, is baseless, in the light of the fact, the empanelled Valuer is not shown as accused in the FIR. Further it is submitted that the bank has reached an erroneous conclusion that the valuer has valued the property for higher amount and it seems that the bank has purposely valued the same lesser than the market value without knowledge of the petitioners herein and are blaming the petitioners.

7. Considering the fact that the petitioners have merely stood as guarantors alone and executed loan security documents for obtaining loan and they are in no way connected with the business transactions between the Firm and the Bank and further they are not even partners of the said Firm, I am inclined to grant anticipatory bail to the petitioners.

8. 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 receipt of a copy of this order, before the learned XI Additional City Civil Court (Special Court for CBI Cases), Chennai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), each 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 and on further condition that:

(a) if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders;

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

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

(f) 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]; and;

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

-sd/-

07/07/2021

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 XI ADDITIONAL CITY CIVIL COURT
(SPECIAL COURT FOR CBI CASES), CHENNAI

2 THE CENTRAL BUREAU OF INVEST
IGATIONS, ACB, CHENNAI.



3 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES, HIGH COURT, MADRAS.

CC to M/S.R.T.SHYAMALA Advocate on payment of necessary charges
Sr.7219

CRL OP.6914/2021

Date :07/07/2021

RVR 19/07/2021