IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :07.03.2022

Pronounced on :11.03.2022

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.Nos.4341 and 4343 of 2022

Crl.O.P.No.4341 of 2022:

1.Rangasamy
2.Kalamani
3.Muthusamy
4.Sivasubramaniam
5.Krishnasami .. Petitioners

/versus/

The State rep by
The Inspector of Police,
District Crime Branch,
Coimbatore.
(Cr.No.3/2022) .. Respondent

Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to enlarge the petitioners on bail in the event of their arrest in Crime No.3 of 2022 on the file of the respondent.

For Petitioners : Mr.S.Kathiravan

For Intervenor : Mr.R.John Sathiyan

For Respondent : Mr.S.Santhosh, GA(Crl.Side)

Crl.O.P.No.4343 of 2022:

1.Sundaramoorthy
2.Kathirvel
3.Maridurai
4.V.Pushpa
5.Velusamy
6.Ajithkumar
7.Singathurai
8.Nithya Ponmani
9.Sundarammal .. Petitioners

/versus/

The State by
The Inspector of Police,
District Crime Branch,
Coimbatore.
(Cr.No.3/2022) ..Respondent

Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to enlarge the petitioners on anticipatory bail in the event of their arrest in Cr.No.3 of 2022 on the file of the respondent.

For Petitioners	:	Mr.S.Kathiravan
For Intervenor	:	Mr.R.John Sathyan
For Respondent	:	Mr.S.Santhosh Government Advocate (crl.side)

COMMON ORDER

These two Criminal Original Petitions are filed by the persons, who are arrayed as accused in Crime No.3/2022 for offences under Sections 418, 420, 409, 468, 471, 477A, 120B of IPC against 35 accused on the complaint given by the Senior Manager of Tamil Nadu Mercantile Bank Regional Office, Coimbatore .

2.The gist of the complaint is that , the petitioners along with other accused had conspired to cheat the bank and in pursuant to the said conspiracy, in connivance with the Manager of the Tamil Nadu Mercantile Bank, Somanur Branch, floated bogus companies and availed loan to a tune of about Rs.10 crores in the name of nearly 150 loanees, who are all the relatives, friends and employees under them. The valuation of the property given as security was inflated with the help and aid of the valuer. The Branch Manager, who is responsible for disbursement of loan, had not verified the true identity of the borrowers. The true value of the property given as securities is not ascertained. In short, the first accused (Rajesh, Former Manager of Tamil Nadu Mercantile Bank) along with A-2, A-6, A-7, A-9, A-10 and A-35/the partners of the 3rd accused (Sri Sangeetha Mills) in active connivance with the fourth accused (Karthikeyan–Engineer/valuer) boosted the value of the properties that were offered as collateral securities by the shell companies in order to enrich the third accused and its partners and has caused loss to the Tamil Nadu Mercantile Bank to a tune of Rs.10,73,00,000/-.

3.The fraud committed by the accused persons in connivance with the Bank Manager, came to light during the audit and thereafter, the verification of records had unravelled the above crime.

4.The petitioners in Crl.O.P.No.4341 of 2022 the accused No:6, 9, 10, 23 and 34.

5.The petitioners in Crl.O.P.No.4343 of 2022 are the accused No: 5, 12, 13, 17, 19, 20, 21, 22 and 24.

6.The learned counsels appearing for the petitioners in both the petitions, contended that, most of these petitioners are only guarantors and name lenders. They were no way connected with the alleged offences and they did not have any intention to cheat the bank. In fact, their properties are shown as security and under mortgage with the defacto complainant bank. The main allegation is only against the first accused the Branch Manager of the defacto complainant bank and the second accused, who is one of the partner of M/s Sri Sangeetha Mills, who had availed loan in the name of the relatives and workers. Even according to the prosecution, the 2nd accused created fictitious companies and diverted the funds of the Bank into the third accused firm, in which the 2nd accused is a partner. Most of the petitioners in Crl.O.P.No.4343 of 2022 are women and their custodial interrogation is not required.

7.The state as well as the defacto complainant had filed counter.

8.The counter of the respondent narrates the overt act of each of the petitioners vividly, hence, the portion of the counter, which are relevant is extracted below:-

"8.On the instigation of A2, A6, A7, A9, A10, and A35, the Partners of M/s Sangeetha Mills and with the aid of A1, the branch Manager, A11, A12, A17, A20, A26 under the guise of Proprietors of different fake concerns. A11 projected him as the Proprietor of K.B.Mills, Petitioner/A12 projected him as the Proprietor of Kathir Mills, Petitioner/A17 projected him as the Proprietor of Pushpa Tex, Petitioner/A20 projected him as the Proprietor of P.A.K.Tex, Petitioner/A26 projected him as the Proprietor of Siddesh Tex approached the TMB Bank for Loan by mortgaging their vacant dry lands which are mentioned above and in furtherance of the above said Conspiracy, A4, the Valuer, knowing very well that the concerns of A11, A12, A17, A20, A26 are fake and without visiting the premises of the said concerns, aggravated the valuation upon the said vacant dry lands of A11, A12, A17, A20, A26 disproportionately and gave the false valuation report to the Bank. A1 being the Bank manager, knowing the above said facts and knowing very well that the valuation Report was false sanctioned the loan amount in favour of A11, A12, A17, A20, A26, disproportionate to the property mortgaged.

9.A15 Durairaj has mortgaged his landed property to the extent of 66 cents to TMB Bank by falsely projecting him as the Proprietor of Durai Mills, which is a false entity. A15 has used the same 66 cents as surety to A13 (MSM Mills), A16 (Selvi Fabrics), A19 (Velu Fabrics), A21 (SAP fabrics), A22 (Banu Tex) and with the Aid of A1 has obtained the loan amount from the bank by using the same property. A15, A16, A19, A21 and A29 are relatives. A23 has signed as guarantor for the loan obtained by A22, his Daughter.

10.A10 has mortgaged his landed property to the extent of 66 cents to TMB Bank has used A30, A32 and A33 and projected them as the Proprietors of Thirumangai Tex, Mounish Tex and Prakshna Mills respectively and used his 66 cents of landed property as surety for A30, A32 and A33 by falsely projecting them as the Proprietors of different false concerns and used them to obtain loan from the TMB, Somanur with the aid of A1 and others accused by falsely projecting higher value for the said 66 cents. For Monetary benefits A30, A32 and A33 consented for the same.

11.A6 has mortgaged his landed property to the extent of site no.34 and site no.39 to TMB, Somanur as surety to A5 (Magesh fabrics), a false entity, to obtain the loan. The said sites were already sold by A6 in the year 2015 itself. But A6 has given the said properties, which was already sold and knowing that the said Properties does not belong to him, used it as surety to A5 and have obtained the loan from TMB, Somanur with the aid of A1 and other accused.

12.A7 (Daughter of A6), showing her as the Proprietor of KSM Mills, has obtained the loan from TMB, Somanur, A9, Mother of A7, has submitted her property as surety to A7, knowing that KSM Mill is a false entity, to obtain the loan by hiking its value disproportionately with the help of A1 and A4.

13. A24 (Wife of A26), showing her as the Proprietor of Sanjana Fabrics, has obtained the loan from TMB, Somanur, A26, husband of A24, has submitted his property as surety to A24, knowing that

Sanjana Fabrics is a false entity, to obtain the loan by hiking its value disproportionately with the help of A1 and A4. A26 has already obtained the loan from the same bank by using the same property and again A26 has given the same property as surety in favour of A24."

9.In the intervening petition filed by the defacto complainant, it is contended that, the value of the property that was offered as collateral security was projected at Rs.9.85 crores and the actual value of the property was a meagre value of Rs.2.40 crores, which won't even cover 1/4th of the loan that was disbursed to the accused under deceit and ultimately benefited the 3rd accused and its directors. Further, the purpose for which the money was used remains unknown.

10.The counters filed by the Investigating Officer as well as the counter of the intervenor speaks volume about the scheme of the fraud conceived and executed by the accused persons. Though it is contended that there is no overt act against many of the petitioners, the counter of the respondent discloses the overt act of each and every accused.

11.The petitioners are either the name lenders of various firms floated by the 2nd accused or guarantors of loan by offering their property as collateral security. At this stage of investigation, it cannot be concluded that their participation in the crime is without knowledge. From the evidence collected so far, loan of Rs.10 crores is advanced based on these collateral securities worth Rs.2.75crores only. It is suspected that the trail of the loan amount disbursed to various firm has ultimately pooled into the account of the 2nd accused and the investigation on it is not yet completed.

12.For the above reasons, these petitions deserve to be dismissed. Accordingly, these Criminal Original Petitions are dismissed.

-sd/-
11/03/2022

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 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S S.KATHIRAVAN Advocate on payment of necessary charges

CRL OP.Nos.4341 and 4343 /2022

Date :11/03/2022

RW 22/03/2022