IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.04.2022	Pronounced on : 19.04.2022

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Criminal Original Petition Nos.8353 & 8359 of 2022

Krishnasami,
S/o.Rayappan,
No.4/41A, Ganesapuram,
Semmandampalayam, Somanur,
Coimbatore - 641 668. ... Petitioner/Accused No.34 in Crl.O.P.No.8353 of 2022

1. Kalamani,
   W/o.Rangasamy,
   No.31 A, Ganesapuram,
   Semmandampalayam, Somanur,
   Coimbatore - 641 668. ... Petitioner/Accused No.9 in Crl.O.P.No.8359 of 2022

2. Muthusamy,
   S/o.Krishnasami,
   No.4/41A, Ganesapuram,
   Semmandampalayam, Somanur,
   Coimbatore - 641 668. ... Petitioner/Accused No.10 in Crl.O.P.No.8359 of 2022

3. Sivasubramaniam,
   S/o.Arumugam,
   No.48/8, Vadivelstreet,
   Samundipuram, Gandhi Nagar,
   Tiruppur - 641 603. ... Petitioner/Accused No.23 in Crl.O.P.No.8359 of 2022

/versus/

The State by
The Inspector of Police,
District Crime Branch,
Coimbatore.
(Crime No.3 of 2022) ... Respondent/Complainant in both cases

Prayer in both cases: This Criminal Original Petition is filed under Section 438 of Cr.P.C., pleased to enlarge the petitioners on anticipatory bail in the event of arrest in Crime No.3 of 2022 on the file of the respondent and pass order.

For Petitioners : Mr.Sundar Mohan,
in both cases for Mr.S.Kathiravan

For Intervenor : Mr.R.John Sathyan
in both cases

For Respondent : Mr.S.Santhosh
in both cases Government Advocate (Crl.Side)

COMMON ORDER

The petitioners, who apprehending arrest for the offences punishable under sections 418, 420, 409, 468, 471, 477A, 120B of I.P.C., in Crime No.3 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. Case in Crime No.03/2022 registered by the respondent police on the complaint given by the Senior Manager of Tamil Nadu Mercantile Bank, R.S.Puram, Coimbatore, wherein it is alleged that, its former Manager Mr.Rajesh (A-1) in connivance with one Kanagaraj (A-2) has cheated the bank to a tune of Rs.10,73,00,000/- by availing loan in the names of 17 fictitious companies of relatives and employees of Kanagaraj (A-2).To enrich themselves fraudulently, A-1 as the Manager of the Bank sanctioned loan for about 10 crores to those fictitious companies showing surety of same property for multiple loans. Further, its worth is less than Rs.2.75 crores, but by inflating the value of the property with the connivance of the valuer Karthikeyan (A-4). All the loan amount later pooled into the account of Kanagaraj. In the F.I.R, 35 persons are named as accused. The overt act of each of the accused narrated in the complaint and how they facilitated the crime of cheating and misappropriation through fabricated documents.

3. This Court had earlier considered the anticipatory bail petitions filed by these petitioners and dismissed it on 11/03/2022 after considering the facts of the case. While dismissing the petition, this Court observed that, the nature of the crime requires custodial interrogation of the accused persons.

4. These petitioners are still at large and yet to be secured. Pointing that, the prime accused like Kanagaraj (A-2), Radhika (A-7), Durairaj (A-15), Maheswari (A-16) who are all the partners or owners of the Firm which has availed loan and defaulted were granted bail by the Court below. Whereas, these accused persons are only guarantors/sureties for the loan and given their properties as security. Therefore, in the view of the said change of circumstances, these petitioners seek anticipatory bail.

5. The materials collected through investigation reveals that, the first accused, who was the Manager of the defacto complainant/Bank was authorised to sanction loan only upto Rs.1 Crore. Therefore, to enable the other accused Kanagaraj, to avail loan of Rs.10 crores, A-1 and A-2 conceived a scheme, wherein fictitious entities were started as if, they are in the spinning or textile trade. To show the promoters of these fictitious company have solvency, Muthusamy (A-10) and Durairaj (A-15), who purchased 1.45 acres each in S.No.82/1A, 82/1B and 111/4 A in Kaduvettipalayam from one Muthu Gounder, retaining 66 cents and created sale deeds to an extend of 0.33 cents each in favour of A-11, A-12 and A-26. Sale deeds to an extend of 0.26 cents in favour of A-17 and A-20. Showing these properties as security for the loans and with the help of the valuation certificates given by A-4, loans for Durai Mills, MSM Mills, Selvi Fabrics, Velu Fabrics, SAP Fabrics, Banu Tex were sanctioned by A-1 ignoring that, the same property is shown for all these loans as security. A-15, A-16, A-19 and A-22 are name lenders for these four fictitious firms. Similarly, A-10 has used his land as security for the loan availed in the name of Thirumagal Tex, Mounish Tex and Prakshna Mills. A-30, A-32 and A-33 are name lenders for these three fictitious firms.

6. For the loan sanctioned to A-5 in the name of Magesh Fabrics, A-6 has mortgaged his property as security suppressing the fact that, portion of the property already alienated by him. A-7 is the name lender for the Firm in the name KSM Mills. She is the daughter of A-6. Her mother A-9 has given her property as security. For Sanjana Fabrics, A-24 is the name lender and his wife A-26 has given her property as security. Two loans were obtained by A-24 on the security of the A-26 property by inflating the value.

7. Krishnasami, the petitioner in Crl.O.P.No.8353/2022 is one of the partner of M/s.Sangeetha Mills along with the other accused Kanagaraj (A-2), Rangasamy (A-6), Radhika (A-7), Muthusamy (A-10), and Maheswari (A-16). Entire loan amount sanctioned in the name of 17 fictitious firms were routed to the account of Kanagaraj of M/s.Sangeetha Mills and later, withdrawn by him or through his partners.

8. In view of the fact that, these petitioners have specific overt act with knowledge about the fabrication and fraud, the arrest of Kanagaraj and his subsequent release on bail is not a ground or reason to revisit the earlier order of dismissal. The material available discloses Krishnasamy (A-34) not only stood as guarantor for the loans transaction to other fictitious firms, but as one of the partners of M/s.Sangeetha Mills which has enriched by these loans ostensible lend to these 17 fictitious Companies has to be interrogated to know the trail of the money.

9. In the counter filed by the respondent/state also explains how the accused persons in this case are related and connected to each other. Kanagaraj (A-2), Rangasamy (A-6), Radhika (A-7), Muthusamy

(A-10), Maheswari (A-16) and Krishnasami (A-34) are partners of M/s.Sangeetha Mills. Kanagaraj is son of Rangasamy. Radhika is daughter of Rangasamy. Kalamani (A-9 who is the first petitioner in Crl.O.P.No.8359/2022) is wife of Rangasamy. Radhika has lend her name for the fictitious firm started in the name of K.S.M.Mills. Kathirvel (A-12) is the proprietor of M/s.Kathir Textiles. He is the brother of Kanagaraj. The proprietor of M/s.Pushpa Textiles is one Pushpa. She is cousin of Kanagaraj (senior paternal uncle's daughter).

10.Muthusamy (A-10) the second petitioner in Crl.O.P.No.8359/2022 has shown same property as security for the loans availed by Thangavel (A-11- K.B.Mills), Kathirvel (A-12-M/s.Kathir Textiles), Pushpa (A-17-M/s.Pushpa Textiles), Ajith Kumar (A-20-M/s.PAK Textiles), Sundarammal (A-24-Sanchanaa Fabrics. The third petitioner in Crl.O.P.No.8359/2022 Mr.Sivasubramaniam (A-23) is the father of Nithya Ponmani (A-22). She is the name lender for the Firm M/s.Banu Tex. She is wife of Sivasubramaniam wife's brother. For the loan availed in the name of M/s.Banu Tex, for which, A-15 has gave his property as security. The very same property was given as security for the loan sanctioned to M/s.Durai Mills in the name of Durairaj (A-14) and M/s.Selvi Fabrics in the name of Maheswari (A-16), who is one of the partners in M/s.Sangeetha Mills.

11. Thus, the petitioners though claim to be innocent and no role in the alleged crime, the investigation and records collected clearly implicates them for the offence of aiding in cheating and breach of trust. The petitioners, therefore, custodial interrogation is required to know the trail of the money cheated.

12. Hence, this Court finds no fresh reason to entertain the anticipatory bail petition after its dismissal on 11/03/2022. The reasons stated in the earlier order of dismissal still holds good and no change in circumstances to entertain the second anticipatory bail petition. Therefore, these petitions for anticipatory bail stands dismissed. Accordingly, these Criminal Original Petitions are dismissed.

-sd/-
19/04/2022

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 JUDICIAL MAGISTRATE,
SULUR.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE DISTRICT [FOR INFORMATION]

3 THE INSPETOR OF POLICE,
DISTRICT CRIME BRANCH,
COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SECTION OFFICER,
E.R.SECTION, HIGH COURT, MADRAS.

+1CC to M/S. S.KATHIRAVAN Advocate on payment of necessary charges SR.No.5802

CRL OP.NOs.8353&8359/2022

Date :19/04/2022

CSK 20/04/2022