RESERVED ON : 16.08.2022

PRONOUNCED ON : 25.08.2022

CRL.OP.Nos.15103 & 15264 of 2022

G.K.ILANTHIRAIYAN, J.

The petitioners, who were arrested and remanded to judicial custody in September 2021 for the alleged offences punishable under Sections 120(B), 419, 420, 409, 467, 468, 471 of IPC and Section 13(1)(a) r/w 13(2) of Prevention of Corruption Act, 1988 in RC.No.032 2020A 0006 on the file of the respondent police, seek bail.

2. On receipt of complaint dated 29.07.2020 as against three accused persons and unknown public servants and also private persons for the offence punishable under Sections 120-B, 419, 420, 409, 467, 468, 471 of IPC and Section 13(1)(a) read with 13(2) of Prevention of Corruption Act, 1988 for committing fraud, forgery and cheating in the term deposits standing in the name of M/s.Chennai Port Trust with Koyambedu Branch of Indian Bank, Chennai to the tune of Rs.100,57,50,000/- and also for committing other criminal offences such

as criminal conspiracy, impersonation, fabrication of false documents, submission of forged documents, criminal misappropriation, criminal breach of trust and fraudulent transactions, etc, thereby caused wrongful loss to the ex-chequer to the tune of Rs.45,40,65,000/-. On receipt of the same, investigation was conducted and found that the accused persons in conspiracy with each other with intention to defraud the bank, fraudulently invited the bank to participate in the bid floated by the Chennai Port Trust for making fixed deposits in the bank by quoting higher rate than the prevailing / existing rate of interest of Indian Bank. Accordingly, the Manager of the Koyambedu Branch had participated in five bids and got fixed deposit totalling Rs.100.57 crores. In furtherance of conspiracy, they created forged fixed deposit receipts against the deposit made by the Chennai Port Trust and delivered the same as acknowledgment of the investment. The same was deposited with the request to pre-close and the entire deposit amounts were transferred to a fake account created in the name of Chennai Port Trust. One of the fraudsters impersonated himself as official of Chennai Port Trust and opened fake current account and signed all the forged documents, cheques, requisition letter for transfer of money, etc. After completion of investigation, preliminary charge sheet has been filed as against 18 accused persons on 02.11.2021.

3. Mr.K.Aravind, the learned counsel appearing for the petitioners would submit that the petitioners are arrayed as accused 19 and 20. They are completely no way connected with the present charge and they are foreign nationals. The said offence said to have been committed in the year 2020 during the period when the petitioners had been studying in Bangalore. They visited India only for the purpose of education and they had valid passport and visa. The petitioners are not public servants of this country. The respondent relied upon the case, in which the petitioners were party under NDPS Act in Bangalore for possession of minor quantity of 'ganja'. However, the respondent failed to produce any piece of evidence to show that the petitioners were involved in the case. He further submitted that the petitioners are entitled for default bail as contemplated under Sections 167(2) of Cr.P.C. While Section 57 protects the accused that any person who has been arrested without a warrant by any police officer cannot be detained in the police custody beyond the time frame of

24 hours except where explicit permission has been sought from the Magistrate. Therefore, the petitioners are entitled for default bail since they are in judicial custody for more than 90 days before filing the charge sheet.

4. Mr.K.Srinivasan, the learned Special Public Prosecutor for CBI cases filed counter and it revealed that the first accused colluded with the petitioners along with other accused persons to prepare forged documents such as Chennai Port Trust profile, Board of Resolution, authorisation letter bearing specimen signatures, rubber seal or self inking stamp of Chennai Port Trust officials, employee identity card, forging / copying / scanning the signatures of the Chennai Port Trust officials in the board resolution and authorisation letter and fabricated official letter format of Chennai Port Trust by using name as 'Port of Chennai'. These documents were used for the purpose of creating fake current account in the name of Chennai Port Trust for the impersonation of an official of Chennai Port Trust and also fake fixed deposit receipts were delivered to Chennai Port Trust against the investment made by them. The petitioners

had come to India on student visa. They are foreign nationals and were residing in a hostel with the help of A21 and they also prepared forged document by viewing the Government organisation profiles as per the direction of the co-accused for looting the funds from other Government organisation. A21 had paid rent for the petitioner's stay at Rasna Residency @ Rasna cafateria, Porur, Chennai. In fact, they are not in possession of their original passports and visas. Further, they did not disclose about the details of their original passport and visa. They were arrested and remanded to judicial custody based on the incriminating material evidences found in their mobile phone and the same were corroborated by the confession statement of other accused persons.

4.1 He further submitted that during search, the respondent seized mobile phones and laptop from the petitioners and found that they are not having possession of their original passports and visas. Further revealed that they forged their passports with regards to the issuance of passport and expired date. Therefore, they are not having any valid passport and are illegally staying in India. That apart, the A19 is in possession of photocopy of the front page of his passport of the country Republic Cameroon which is not used for his arrival to India. That apart, they involved in the case of NDPS Act in crime No.270 of 2019 on the file of the HSR Layout Police Station, Bangalore. Based on the oral and documentary evidence, a supplementary charge sheet has been filed as against the petitioner for the offence under Section 465, 467, 468 of IPC and Section 14 of Foreigners Act and Sections 120(b) r/w 409, 419, 420, 465, 467, 468, 471 and 477-A of IPC and Section 13(2) r/w 13(1)(a) of Prevention of Corruption Act, 1988. Another supplementary charge sheet has been filed as against A21 to A23 on 25.02.2022. Thereafter, on 24.05.2022 after completion of further investigation, another supplementary charge sheet was also filed as against the accused 24, 25, 26, 27, 28 and 29. Further, preliminary charge sheet has been filed on 02.11.2021 against 22 accused persons. Thereafter, supplementary charge sheet was filed as against the petitioners on 17.12.2021. Therefore, the petitioners are not entitled for default bail as contemplated under Section 167 of Cr.P.C.

5. That apart, they are foreign nationals and if they are let out on bail, it is very difficult to secure them to complete the prosecution case. Therefore, this court is not inclined to grant bail to the petitioners. Accordingly, both the criminal original petitions are dismissed.

25.08.2022

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