Crl.O.P.No.14868 of 2022

SATHI KUMAR SUKUMARA KURUP, J.,

The Petitioner, who apprehends arrest at the hands of the Respondent Police for the offences punishable under Sections 120-B and 420 IPC and Sec.13 (2) r/w 13 (1) (d) of PC Act, 1988, in RC.No.032 2021 A 0008 & 0010 CBI ACB Chennai, seeks Anticipatory Bail.

2. The Learned Counsel for the Petitioner submitted that the Petitioner was summoned by the Respondent for investigation regarding the diversion of funds obtained by the Accused in RC.No.032 2021 A 0008 & 0010 CBI ACB Chennai, by the Respondent.

3. It is the submission of the Learned Counsel for the Petitioner that the Petitioner as a Panel Valuer of the Punjab National Bank had assessed the value of the property belonging to the Accused in this case, while they had applied for loan with the Punjab National Bank. It is the allegation of the Prosecution that the Accused in both cases had obtained loan by showing property for which the Petitioner is alleged to have given valuation report. The Accused is alleged to have diverted the funds obtained from the Punjab National Bank for the purpose other than for what they had obtained loan. They had committed fraud on the bank, for committing the default, the bank proceeded with the attachment of the property. At this stage, they came to know the valuation offered by the Petitioner was excessive high. Therefore, he had registered the case against the Accused. In the course of the investigation, the Investigation Officer had summoned the Petitioner herein.

4. It is the submission of the Learned Counsel for the Petitioner that they had obtained valuation from the different valuers. The third valuation report was too low. The Petitioner sought for the details of the valuation by the other valuater which was not provided. If they had provided it, the Petitioner is able to offer his explanation for issuing his valuation which is considered by the bank as high. Instead, the Investigation Officer attempts to array the Petitioner as Accused. Therefore, the Petitioner apprehends arrest in the hands of the Respondent. Also, the Petitioner had filed a Writ Petition before this Court in W.P.No.5623 of 2022, to prevent blacklisting the Petitioner from the Panel of valuers. Therefore, this Court in W.P.No.5623 of 2022 had granted interim stay in WMP.Nos.5717 & 5718 of 2022.

5. It is the submission of the Learned Counsel for the Petitioner that the Writ Petition is still pending that has not been posted after 13.06.2022. The Petitioner undertakes to co-operate with the investigation. Also the Petitioner had furnished all documents regarding the valuation given by him, based on the valuation of the properties.

6. It is the submission of the Learned Counsel for the Petitioner that the third valuer had considered the immovable property as agricultural land. Therefore, he had given a very low value which is taken by the Investigation Officer to suspect the role of the Petitioner. The property furnished by the Accused belongs to Walajapet Taluk, Vellore District. Therefore, the valuation is different and not an agricultural land. It is the further submission of the Learned Counsel for the Petitioner that each valuer's value will be distinct and different in a Panel of Valuers.

7. For example, site value might have increased year after year and the value of the building might have decreased year after year for which, PWD issued guidelines and therefore two valuations given by two valuers cannot be considered as suspicious.

8. Mr.K.Srinivasan, Learned Special Public Prosecutor submitted that the case had been registered and counter has been filed by the Respondent and he relies on Paragraph Nos.3 & 4 which are extracted hereunder:

> *"3. It is also submitted that as alleged the property which was offered as Primary Security in both the cases i.e., Door No.121/1A, Sadeari Street, also known as MBT Road, Pinji Village, Walajapet Taluk, Vellore District for the facility was misrepresented and assessed exorbitantly by the valuer Shri.D.Jagannathan of Puducherry for Rs.1560.00 lakhs as Market value and Rs.1500.00 lakhs as realizable value. Further, the property was valued exorbitantly by the valuer Shri G.K.Manokharan of Thiruvallur for Rs.1921.97 lakhs as Market Value and dated 31.01.2020 given by the Bank's Panel valuer M/s.Hi-Tech Valuers, Chennai, the property's market value is only Rs.244.00 lakhs and realizable value is Rs.220.00 lakhs. Thus, the bank had sanctioned the credit facilities based on the valuation report for the collateral property. The basis of such varied valuation by the different valuers, including the valuation of the Petitioner is to be investigated.*
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> *4. It is submitted that the loans were sanctioned on the basis of the valuation given by the Petitioner. Even though the second valuer Shri G.K.Manokharan of Thiruvallur also valued the property for higher value than that of the Petitioner, the third valuer Shri R.Baabu valued the property/valuers needs to be investigated."*

9. The Punjab National Bank had extended the loan to the Accused based on the valuation report of the Petitioner. The Accused had misused the loan and diverted the loan funds. They had not utilized the loan for the purpose for which loan was extended. Therefore, while taking initial steps to attach the property, by which time, it was found that the valuation by the different valuer was lower than the value given by the Petitioner herein. Therefore, the Bank suspected the role of the Petitioner also. The Petitioner was summoned by the Investigation Officer. The Petitioner appeared before the Investigation Officer and had given the statement under Section 161 Cr.P.C.

10. Considering the submission of the Learned Counsel for the Petitioner and Learned Public Prosecutor (CBI), this Court is inclined to grant Anticipatory Bail to the Petitioner, subject to the following conditions:

11. Accordingly, the Petitioner is ordered to be released on Bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Additional Chief Judicial Magistrate's (E.O.I) & (E.O.II) Court, Chennai, on condition that the Petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum amount to the satisfaction of the Respondent Police or the Police Officer who intends to arrest or to the satisfaction of the learned Judicial Magistrate concerned, failing which, the Petition for Anticipatory Bail shall stand dismissed and on further conditions that:

(a) the Petitioner and sureties shall affix their photographs, and left thumb impression in the surety bond. The learned Additional Chief Judicial Magistrate's (E.O.I) & (E.O.II) Court, Chennai, may obtain a copy of their Aadhar card or Voter Identity card or Driving License or PAN card or Bank Pass Book with photo affixed and attested by the Bank Manager to ensure their identity;

(b) the Petitioner shall report before the Respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

(c) the Petitioner shall not influence, threaten or coerce the witness either during investigation or trial;

(d) the Petitioner shall not abscond either during investigation or trial;

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

(f) If the Accused thereafter absconds, a fresh FIR can be registered under Section 229-A of the Indian Penal Code.

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

12.07.2022

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SATHI KUMAR SUKUMARA KURUP, J.,

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