Crl.O.P.No.20692 of 2022

G.K.ILANTHIRAIYAN, J.

The petitioner who was arrested and remanded to judicial custody on 21.03.2022 respectively for the offences punishable under Sections 120B, 419, 420, 409, 467, 468, 471 of IPC and Sections 13(1)(a) r/w 13(1)(d) & and 13(2) of Prevention of Corruption Act, 1988 (As Amended in 2018) in crime No.RC.No.032 2020 A 0006 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on the complaint lodged by the Deputy General Manager, Indian Bank, Zonal Office, Chennai, the respondent registered FIR in crime No. RC.No.032 2020 A 0006 for the offences under Sections 120B, 419, 420, 409, 467, 468, 471 of IPC and Sections 13(1)(a) r/w 13(1)(d) & and 13(2) of Prevention of Corruption Act, 1988 (As Amended in 2018), thereby committed fraud, forgery and cheating in the Term Deposits (Fixed Deposits) standing in the name of M/s.Chennai Port Trust with Koyambedu Branch, Indian Bank, Chennai to the tune of Rs.100,57,50,000/-. The accused persons also committed the other offences such as criminal conspiracy, impersonation, fabrication of false documents, submission of forged documents, criminal misappropriation, criminal breach of trust,

fraudulent transaction, etc. thereby causing a wrongful loss of public money to an extent of Rs.45,40,65,000/- and corresponding wrongful gain to themselves by transferring / withdrawing the said amount to various accounts. All the accused persons have created fixed deposits in the name of M/s.Chennai Port Trust and fraudulently preclosed the fixed deposits and the amounts were deposited in the fake account of Chennai Port Trust General Insurance Fund which was created by the accused persons. From the said accounts, money was fraudulently transferred to several accounts and withdrawn as cash and collected by the accused persons. The first accused has approached the other accused persons for getting surplus funds from any Government Organisation for creating fixed deposits in any national bank with intention to swindle the said investments. In pursuant to the same, the first accused approached the third accused / Branch Manager of Indian Bank, Koyambedu Branch by furnishing broad resolution copies for the investment of Rs.300 crores.

2.1 It is the further case of the prosecution that the first accused who acted as kingpin of this crime got information about the deposits of surplus funds of Chennai Port Trust through the petitioner/A26 who was the Assistant Superintendent, Bill Section, Finance Department of Chennai Port Trust. All the accused persons conspired together and created bogus documents such as board resolutation, authorization letter in the name of Chennai Port Trust along with the forged employee ID card in respect of the fourth accused with the individual pan card, aadhar card of the fourth accused and GST registration certificate of Chennai Port Trust as KYC for the purpose of opening the current account purportedly in the name of Chennai Port Trust General Insurance Fund by A4 by impersonating himself as Deputy Director, Finance Department of Chennai Port Trust. It was opened for the purpose of parking the investment amount received from Chennai Port Trust before creating fixed deposit and also to deposit the amount received from preclosure of fixed deposit receipts. From the said account, money was further fraudulently transferred to various accounts and withdrawn the amount in cash. Modus apprehendi of the accused persons are that they approached Chennai Port Trust officials for getting surplus funds of Chennai Port Trust in the form of fixed deposits and in that process in criminal conspiration with the bank officials, bank was made to quote higher rate of interest that the maximum permissible limit so as to ensure that the surplus fund was deposited in the Indian Bank, Koyambedu Branch as fixed deposit for a period of one year. Thus, the Indian Bank, Koyambedu Branch has obtained Rs.100,57,50,000/-

from Chennai Port Trust through the account opened by the accused persons in the name of Chennai Port Trust.

2.2 Further, the Bank Manager who is arrayed as A3 has created fixed deposits with the lesser interest rate than the quoted rate and handed over the fixed deposit receipts to the accused persons rather than delivering the same to the Chennai Port Trust directly. The accused persons created fake deposit receipts with the quoted interest rate and handed over the same to the Chennai Port Trust. The accused persons had possessed original fixed deposit receipts and the same were preclosed in conspiring with the bank officials and all the amounts were deposited in the fake current account. Thereafter it was transferred to various accounts to the first link beneficiaries known to the accused persons. The accused A2, A5, A6 had withdrawn Rs.15.25 crores as cash. Other amounts were transferred and withdrawn by the first link beneficiaries at various places by the other accused persons.

3. Heard, the learned counsel for the petitioner and the learned Special Public Prosecutor for CBI cases appearing for the respondent.

4. The learned counsel for the petitioner would submit that the petitioner was arrested and remanded to judicial custody on 21.03.2022 respectively. The respondent also completed investigation and filed final report. They further submitted that except A2, others are only name lenders and they acted as commission agent. Whatever the amount received by them through their account which were duly repaid to A1. Therefore, they had no conspiracy with the first accused who cheated the Chennai Port Trust. They had no knowledge that the first accused opened the account in the third accused bank in the name of Chennai Port Trust and misappropriated huge sum. Whatever the amount transferred to their account, they were only on the basis of the commission and on deducting the commission, they returned back the entire amount in favour of the first accused. Therefore, they was no conspiracy by the petitioner along with the first accused. As far as the petitioner is concerned, he is only an employee of the Chennai Port Trust and he has nothing to do with the crime as alleged by the prosecution. Even according to the case of the prosecution, he furnished the details about the deposits of the first accused.

5. Whereas, on perusal of the final report, it was filed by the respondent against 18 accused persons on 31.07.2020. On further investigation, the respondent filed first additional charge sheet as against two accused persons on 31.07.2020 totally as against 30 accused persons. Further, it revealed the specific overt as against each of the accused persons as follows:

(i) A2, Manimozhi, who had conspired with other accused persons. He had convinced the third accused to participate in the bidding of fixed deposit from the Chennai Port Trust and also helped in opening fixed deposit in the name of other person. Thereafter, he colluded with other accused persons and opened a purported current account in the name of Chennai Port Trust General Insurance Fund by impersonating the Deputy Director (Finance) of Chennai Port Trust by the impersonator A4 which was used as platform for parking the fixed deposit funds of Rs.100,57,50,000/- on five instances as well as for fraudulent transfers to other beneficiaries and fraudulent bulk cash withdrawal from the counter by using the cheque issued in the name of purported Chennai Port Trust current account.

(ii) A8, who had conspired with other accused persons and collected six bank account details which were given to A7 in order to avail fraudulent credit of Chennai Port Trust fixed deposit fund and swindled the same for commission purpose. He availed credits by the first link beneficiaries from the purported current account of Chennai Port Trust through A7 and A8 to the tune of Rs.14,98,50,000/-. Based on the said amount, he availed commission for the fraudulent credits and subsequent withdrawals in cash.

(iii) A10, who conspired with other accused persons and canvassed the beneficiaries i.e. other accused persons i.e. Proprietor of M/s.Taj Trading Company and one Mr.John Roch Bosco and have collected 3 bank account details which were given to A8 in order to avail fraudulent credit of Chennai Port Trust fixed deposit fund and swindled the same for commission purpose. So far, he availed the credits by the first link beneficiaries from the purported current account of Chennai Port Trust to the tune of Rs.11,48,80,000/-. For the said amount, he availed commission for the fraudulent credits and subsequent withdrawal in cash.

(iv) A11, who also conspired with other accused persons and canvassed the beneficiaries and collected 9 bank account details and the same were furnished to the first accused in order to avail fraudulent credit of Chennai Port Trust fixed deposit fund and swindled the same for commission purpose. He availed the credits by the first link beneficiaries from the purported current account of Chennai Port Trust to the tune of Rs.6,19,05,000/- and availed commission for the fraudulent credits and subsequent withdrawals in cash.

(v) A21, who was running one water company in the name of Lakshya Aqua since 2017. The other accused persons i.e. A19 and A20 used to come to his company. He conspired with other accused persons and created forged fixed deposit receipts and forged letter head which were used to preclose the fixed deposits as well as fraudulent transfer of funds from the purported current account of Chennai Port Trust to various accounts and subsequently the funds were swindled by the accused persons by way of transferring / withdrawal.

(vi) A26, who is an employee of Chennai Port Trust, Finance Department and he conspired with other accused persons and gathered information from the officials of the Finance Department of Chennai Port Trust as to the rate of interest in the last bidding rate and handed over to the other accused persons. He facilitated the others to drop the quotation by quoting a higher rate of interest than the last bidding rate for getting the fixed deposit from the Chennai Port Trust to Indian Bank, Koyambedu Branch and to hand over the three fake fixed deposit receipts. He had received illegal gratification of Rs.5,00,000/- cash from one, T.Easakki. He was treated as approver and also received a sum of Rs.1,20,000/- through his bank from other accused persons to favour and facilitate the accused persons for getting the funds of Chennai Port Trust by informing the highest quoted rate of interest.

6. Therefore, all the accused persons have committed very serious offence as against the society and caused huge loss to the exchequer. All the accused persons have committed white collar crime and they conspired together and executed the crime in a well planned manner. Economic offences having deep rooted conspiracy involving huge loss to public funds needs to be viewed seriously. These offences are considered as grave offences affecting the economy of our country as a whole and thereby posing serious threat to financial health of our country. The nature of accusation and severity of punishment in case of conviction, the reasonable apprehension of tampering with the witness or apprehension of threat to the complainant and prima facie

satisfaction of the Court in support of charge as against the petitioner, this Court is not inclined to grant bail to the petitioner.

7. Recently, the Hon'ble Supreme Court of India issued certain guidelines to be followed while considering the bail petitions in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and Another*** reported in ***Misc.A.No.1849 of 2021 in SLP(Crl.)No.5191 of 2021*** that in respect of economic offences are concerned, the law laid down in the cases of ***P.Chidambaram Vs. Directorate of Enforcement*** reported in ***(2020) 13 SCC 791*** and ***Sanjay Chandra Vs. CBI*** reported in ***(2012) 1 SCC 40*** will govern the economic offences field. In those cases, the Hon'ble Supreme Court of India held that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial. Therefore, in determining whether to grant bail, both seriousness of the charge and the severity of punishment should be taken into consideration. The grant or refusal to grant bail lies within the descretion of the Court. The grant or denial is regulated, to a large extent,

by the facts and circumstances of each particular case.

8. In the case on hand, the petitioner is charged with economic offences of huge magnitude. This Court is also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. That apart, there is no change in circumstances. Therefore, this Court is not inclined to grant bail to the petitioner. Accordingly, all the criminal original petitions are dismissed.

07.09.2022

Sma

G.K.ILANTHIRAIYAN, J.

Sma

Crl.O.P.No.20692 of 2022

07.09.2022