IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.11.2022

Pronounced on : 17.11.2022

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

Crl.O.P.No.26369 of 2022

Krishnasami ... Petitioner

Vs.

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

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

For Petitioner : Mr.A.Nagarajan for
Mr.S.Kathiravan

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl.Side)

For Intervenor : Mr.R.John Sathyan

ORDER

The Criminal Original Petition for anticipatory bail, by the accused in respect of the First Information Report in Crime No.3 of 2022 registered based on the complaint given by the Senior Manager of Tamilnadu Mercantile Bank, R.S.Puram, Coimbatore.

2. The gist of the First Information Report:

Rajesh (A-1) the then Manager, Tamilnadu Mercantile Bank, Coimbatore in connivance with one Kanakaraj (A-2) has sanctioned loans to 17 fictitious firms started by A-2 with the help of his relatives and employees. As against properties worth about Rs.2.75 crores, knowingly loans for over Rs.10 crores sanctioned by inflating the value with the connivance of the valuer. Same properties were shown as surety for multiple loans. Out of 35 accused, 13 were arrested. 12 still absconding. The investigation is pending. Most of the absconding accused have earlier filed anticipatory bail petitions either separately or jointly, but dismissed for more than once.

3. In the said background, the petitioner, who is arrayed as

34th accused in the case, is before this court seeking anticipatory bail. Having been unsuccessful in his earlier two attempts, this is his third petition. The earlier two petitions were dismissed primarily on the ground that investigation is underway and granting bail is not conducive for investigation. In this petition, as a change in circumstances, the petitioner pleads that, except Section 409 I.P.C., all other offences against him are punishable for a term less than 7 years. There is no specific overt act against him except to say he is one of the partners of M/s.Sangeetha Mills. Out of 35 accused, some of them were arrested and granted bail.

4. Whereas the learned Government Advocate (Crl.Side) representing the State, submitted that, the accused persons to cheat the *de facto* complainant bank conceived a scheme of conspiracy and pursuant to conspiracy hatched between the accused/A-1, the Bank Manager and A-2/the borrower, 17 fictitious firms were floated in different names and loan of Rs.10.73 lakhs was availed. The loans sanctioned to those fictitious company reverted back to M/s.Sangeetha Mills. The scheme was conceived to circumvent the restriction on A-1 as Manager of the *de facto* bank empowered to sanction loan only upto one crore rupees and to show the same property as surety for most of these loans or documents of property, which already alienated were given as surety. The crime has been successfully executed by A-2 with the connivance of A-1, the Bank Manager and the relatives/employees of A-2. Since the complexity of the crime involves deeper investigation, the abscondency of this petitioner and others, (12 out of 35 named accused) causes delay in completion of investigation and tracing of the money siphoned.

5. As far as this petitioner/Krishnasami (A-34), the learned Government Advocate (Crl.Side) submitted that, this petitioner is one of the partners in M/s.Sangeetha Mills. The other partners are Kanagaraj (A-2), Rangasamy(A-6), Radhika(A-7), Muthusamy(A-10), Maheshwari (A-16). The loan amount sanctioned to the fictitious firm were found its route to the account of M/s Sangeetha Mills or its partners. That apart, this petitioner has stood as guarantor for the few loans.

6. The Learned Counsel for the intervenor/*de facto* complainant submitted that, the fraud, fabrication of document and breach of trust manifestly established from the records. In the SARFAESI proceedings, the bank could able to recover hardly 1/4th of the loan amount and no other assets worthy for recovery available with these accused and by absconding the accused is able to screen the money they got through the crime.

7. On considering the records and the previous orders passed by this court, the submissions made by the learned counsel for the petitioner that due to the change in circumstances, the petitioner be granted bail does not carry merit. Hence, this Criminal Original Petition stands dismissed.

17.11.2022

rpl
Index: Yes/No
Speaking Order/Non Speaking Order

To
1.The Inspector of Police,
District Crime Branch,
Coimbatore.

Dr.G.JAYACHANDRAN, J.

rpl

2.The Public Prosecutor,
High Court of Madras,
Chennai.

Pre-Delivery Order made in
Crl.O.P.No.26369 of 2022

17.11.2022