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.26370 of 2022

1.Kalamani
2.Sivasubramaniam ... Petitioners

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 9 and 23, in Crime No.3 of 2022 on the file of the District Crime Branch, Coimbatore 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. For the loan sanctioned to the 7th accused S.Radhika, proprietorix of M/s.KSM Mills, the first petitioner(A-9) stood guarantee. For the loan sanctioned to the 22nd accused M/s.Banu Tex, the second petitioner (A-23) stood guarantee.

3. The petitioners, who are arrayed as A-9 and A-23, seeking anticipatory bail on the ground that the loan availed by S.Radhika (A-7) repaid and this petitioner is only a mortgagor, who gave her property as collateral security for the loan. In spite of discharging the loan, the *de facto* complainant bank is withholding the documents and not returning it. The petitioner is a housewife and her arrest would not further vitiate the investigation in any manner. As far as the second petitioner (A-23), the only allegation against him is that he stood personal guarantee to the 22nd accused, the proprietor of M/s.Banu Tex. For the said loan already a sum of Rs.10 lakhs repaid by Nithyaponmani (A-22) and this petitioner who stood as guarantee has no role in the alleged crime. There is no evidence to suggest that this accused gained wrongfully by giving security of his property.

4. 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* complainant 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.

5. In so far as these petitioners, the Learned Government Advocate submitted that, the first petitioner who is arrayed as A-9 is the mother of A-7 the proprietorix of M/s.KSM Tex. For the loan limit of Rs.44 lakhs by A-7, the first petitioner had given her property at Annur as guarantee. Later, the loan limit increased to Rs.80 lakhs by A-1. This petitioner is mother of A-7 and wife of Rangasami(A-6) who is one of the partner of M/s.Sangeetha Mills.

6. The second petitioner A-23, is the father of A-22 (Nithya

Ponmani). The loan of Rs.48 lakhs sanctioned to M/s.Banu Tex, owned by A-22 is based on the guarantee stood by this petitioner and one Durairaj. Hence the learned Government Advocate(Crl.Side) submitted that, the scheme of conspiracy involving relatives in all the 17 fictitious loan requires deeper investigation. The abscondency of these petitioners causes delay in completion of investigation and tracing of the money siphoned.

7. 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 persons able to screen the money they got through the crime. The web between the accused as unravelled through investigation, requires custodial interrogation.

Dr.G.JAYACHANDRAN, J.

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8. On hearing the above submissions and on considering the records, this Court holds the petition deserves order of dismissal. Hence, this Criminal Original Petition stands dismissed.

17.11.2022

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Index: Yes/No
Speaking Order/Non Speaking Order

To

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

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

Pre-Delivery Order made in
Crl.O.P.No.26370 of 2022