Crl.O.P.No.26907 of 2022

A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 120B r/w 420 of IPC and Section 7 of Prevention of Corruption Act, 1988 (as amended in the year 2018) in FIR No.RC0322021A0012 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the officials belonging to Indian Overseas Bank, namely A13 and A14 at Valasaravakkam Branch, Chennai has sanctioned and disbursed 21 Cash Credit Loans in the names of non-existing units of A1 and A12 except M/s.A.K.Spinning and Weaving Mills and also sanctioned 2 Nos. of Loans against Property (LAP) in the names of G.Murugan and Geetha and cheated Indian Overseas Bank, Valasaravakkam Branch by diverting the funds for the ultimate benefit of M/s.A.K.Spinning and Weaving Mills by its partners, namely Anandheeswara Sharma (A1) and R.Subramanian (A2), thereby caused wrongful loss of Rs.9.18 crores to Indian Overseas Branch, Valasaravakkam Branch, Chennai and corresponding wrongful gain to themselves and thereby they have committed above offences. Hence, the case.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and they are made as scapegoats and they were used by the main accused (A1) for committing the fraud. He would also submit that the other accused induced the petitioners stating that the loan will be offered to them and believing the other accused, they have opened accounts and also issued blank cheques to the other accused as directed by them whereas they have misused the same and taken loans from Indian Overseas Bank in collusion with the Bank managers and they have cheated the bank. The petitioners are not the beneficiaries. Further, he would submit that the petitioners at the best can only be brought in the rank of witnesses in the case and that the entire case of the prosecution is borne out by records. He would further submit that the petitioners were called for enquiry and in due compliance, they have also appeared before the respondent for enquiry. Hence, he prays to grant anticipatory bail to the petitioners.

4.The respondent has filed a detailed counter and the relevant portion in respect of the allegations against the petitioners is stated in paragraph No.10, which is extracted herein below :

"10. It is submitted that investigation revealed that the petitioners/A-3 and A-5, without doing any business,

opened two current accounts each in the name of M/s.Pon Agro Industries & M/s.P R Textiles Corporation and M/s.R R Seeds & M/s.Ayyanar Textiles respectively, and also signed in the blank loan documents, cheque books, etc., and thereby, they facilitated Shri Anandheeswara Sharma (A-1) to avail Cash Credit of Rs.40.00 lakhs each in the name of the above said four firms and to cheat the bank. It is further submitted that during the course of investigation, the petitioners/A-3 & A-5 have admitted the above facts. The investigation of the case is in crucial stage. If the bail is granted to the petitioners at this stage, it may hamper the investigation."

5.The learned Government Advocate (Crl.side) appearing for the respondent CBI would submit that the petitioners have aided the main accused in committing the act of fraud and cheating and the petitioners, without doing any business, opened two current accounts each in the name of M/s.Pon Agro Industries & M/s.P R Textiles Corporation and M/s.R R Seeds & M/s.Ayyanar Textiles respectively, and also signed in the blank loan documents, cheque books, etc., and thereby, they facilitated the main accused (A1) to avail Cash Credit of Rs.40 lakhs each in the name of the above said four firms. It is further submitted that the petitioners were called for enquiry and during the enquiry, they have admitted to the above facts. He would submit that the investigation of the case is on the crucial stage and there is a possibility of them tampering with the investigation. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

6.Per contra, the learned counsel for the petitioners would submit that in due compliance of the summons issued to them, the petitioners have appeared before the respondent and they have also given statement before the respondent. He would further submit that as per the counter, the entire case of the prosecution is borne out on records and there is no chance of tampering of evidence.

7.Heard the learned counsels and perused the materials available on record. Taking into consideration the facts and circumstances of the case and also considering the allegation against the petitioners that they have abetted and aided the main accused, who are the ultimate beneficiaries and also the fact that the petitioners have appeared before the respondent for enquiry, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned XI Addl & Spl Judge for CBI cases, at Chennai,** on condition that each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police every Monday at 10.30 a.m., until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned 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].**

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

16.11.2022

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