IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **07.11.2022**

CORAM

THE HON'BLE MR. JUSTICE **M. NIRMAL KUMAR**

Crl.OP.No.26868 of 2022

Pavalabalan ... Petitioner

Vs.

State rep by
The Inspector of Police,
Bank Fraud Prevention Wing,
CCB, Team – XI,
Vepery, Chennai. ... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to enlarge the petitioners on bail in Crime No.150 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Ashok Kumar for
Mr.M.Baskar

For Respondent : Mr.C.E.Pratap,
Government Advocate (crl.side),

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.10.2022 for the offences punishable under Sections 120(B), 420, 465, 467, 468, 471 of IPC in Crime No.150 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused 1 & 2 are partners in M/S.V.Tech Park, had availed loan from the Indian Bank, Vadapalani for a sum of Rs.1 crore and 30 lakhs as a open cash credit. After availing loan, A1 and A2 without utilizing it for the purpose of business transaction, had diverted the same to the account of A3. Thereafter, the accused misappropriated the loan amount. The petitioner is stated to have facilitated the loan to A1 and A2 by forging the loan documents. Hence, the case.

3. The contention of the learned counsel for the petitioner is that the petitioner is an innocent and he has nothing to do with the alleged offence. On the complaint given by the Manager of the Bank, A1 and A2 were arrested on 11.01.2022 and thereafter, Sarfaesi proceedings has also

been initiated against A1 and A2. Later, based on the confession of A2, the petitioner was arrested on 15.10.2022. He would submit that A2 in this case has been granted statutory bail. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the Manager of the Indian Bank had lodged a complaint in the year 2020 against A1 & 2 stating that they had availed open cash credit loan of Rs.1 Crore and 30 Lakhs from the bank and without utilizing it for the business purpose, had diverted the same to the account of A3 and misappropriated the loan amount. The allegation against the petitioner is that he is the person, who created forged documents for the purpose of getting loan for A1 & 2. The petitioner had received Rs.10 Lakhs from A1 as a commission. Thereafter, the petitioner has been arrested on 15.10.2022. The investigation is in progress and so far as no money has been recovered. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials including the First Information Report.

6. Taking into consideration of the fact that the petitioner is not a named accused in the FIR and based on the confession of A2, he has been arrested, now A2 has been granted Statutory bail and there is no recovery from the petitioner and the petitioner is only a commission agent and not obtained loan from the Bank, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twnety Five thousand only)** with **two sureties,** in which, each for a like sum to the satisfaction of the **learned CCB & CBCID Metropolitan Magistrate, George Town, Chennai** and on further conditions that:

[a] 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 petitioner shall report before the **respondent daily at 10.30 a.m., for a period of three weeks and thereafter as and when required for interrogation;**

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

07.11.2022

shk

M. NIRMAL KUMAR,J.

shk

To

1. The learned CCB & CBCID Metropolitan Magistrate, George Town, Chennai.

2. The Inspector of Police,
Bank Fraud Prevention Wing,
CCB, Team – XI,
Vepery, Chennai.

3. The Central Prison,
Puzhal

4. The Public Prosecutor,
High Court of Madras.

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