Crl.O.P.Nos.12830, 14359, 15617, 19337 and 19880 of 2023

and

Crl.M.P.Nos.13743, 13747, 13750, 13752, 13753, 15303, 15305, 15306 and 15299 of 2023

C.V.KARTHIKEYAN, J.

The petitioners who are arrayed as A4, A3, A1, A2 and A6 apprehend arrest at the hands of the respondent police for the offence punishable under Sections 420 and 406 of I.P.C, and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997, in Crime No.1 of 2023 on the file of the respondent police, seek anticipatory bail.

2. Since common arguments had been advanced in all the petitions, a common order is passed. Intervening petitions have been filed and the intervenors have also raised objections for passing any order in favour of the petitioners.

3. On the side of the respondent also, status report had been filed which is common in nature and in view of these facts, it is only prudent that one common order is passed in all these petitions.

4. Crl.O.P.No.12830 of 2023, had been filed by the fourth accused in Crime No.1 of 2023 registered by the respondent police under Sections 460 and 420 of I.P.C and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997.

5. Crl.O.P.No.14359 of 2023 had been filed by the third accused in Crime No.1 of 2023 registered by the respondent under Sections 460 and 420 of I.P.C and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997.

6. Crl.O.P.No.15617 of 2023 had been filed by the first accused in Crime No.1 of 2023 registered by the respondent under Sections 460 and 420 of I.P.C and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997.

7. Crl.O.P.No.19337 of 2023 had been filed by the second accused in Crime No.1 of 2023 registered by the respondent under Sections 460 and 420 of I.P.C and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997.

8. Crl.O.P.No.19880 of 2023 had been filed by the sixth accused in Crime No.1 of 2023 registered by the respondent under

Sections 460 and 420 of I.P.C and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997.

9. In the F.I.R in Crime No.1 of 2023 dated 27.05.2023, the complainant Durga Devi had alleged that she was introduced to all the accused who are members of one family and that she knew this family for about 5 decades. The nature of business of the accused was to collect monies from various individuals with promise to return it back with higher interest.

10. It is stated that the complaint had so invested a sum of Rs.50 lakhs, the amount which she had handed over to the first accused. She had similar business transactions for the past 10 years. A promissory note had been executed. Only interest was paid for the said sum. The principal amount was not returned. For the invested amount of Rs.50 lakhs, after deduction of tax and other aspects and including unpaid interest. She was entitled for return of a substantial amount. She stated that fresh promissory notes were executed, by taking back the old promissory notes. She had also made endorsements on the back side of the promissory notes for the past amounts received. However, when she

asked for return of the principal amount, the accused did not return the same and on enquiry, she came to know that the accused had cheated several persons using the same modus operandi to a sum of Rs.100/- Crores. Hence she filed the complaint.

11. It is informed on behalf of the respondent/Investigating Agency that the first complaint was actually lodged on 23.02.2022. Thereafter various enquiries were made. The fact is that several complaints had been lodged against all these accused persons, particularly that they had given false promises that they would invest amounts in real estate business and return the amounts given with higher interest. During the course of investigation, it had come to light that the actual depositors are more than 400 and the total amount invested with the accused is approximately Rs.500 crores. Therefore, this Court had directed the investigating officer to collect the details of depositors and the details of amount to be received from the borrowers. Finally, the FIR was registered on 27.05.2023.

12. It is contended on behalf of the respondent that to their information they have received complaints stating that money has to be

received from as many as 89 individuals and the total amount involved is about Rs.36,98,86,960/-. It is also stated that the actual number of depositors are more than 400.

13. It had been stated that the complaint by the de-facto complainant Durga Devi has been lodged only in March 2023. It was also stated that subsequent to enquiry conducted by the respondent, they have also frozen the bank accounts of the accused persons.

14. On the side of the respondent it is further contended that the entire nature of the transaction involved, the amounts involved and the details of the various depositors will have to be determined. The names of the depositors will have to be determined. The places where the money had been deposited or invested will have to be found. It is stated that custodial interrogation is very much essential and that the trial of money will have also be determined by the respondent which requires interrogation of the accused person, particularly the first accused.

15. The learned counsel for the first respondent, however stated that the first accused takes responsibility for return of money and claimed that there is property worth about 7 crores and also stated that

there are deposits and investments in other companies which could come to an amount of Rs.1/- crore and therefore stated that he would co-operate with the investigation and stated that the entire amount so realised from the said property could be utilized for the return of the amounts paid by the various depositors.

16. The learned Senior Counsel for the second accused/wife of the first accused stated that the second accused is a home maker and senior citizen who is aged about 75 years and stated that she had no direct contact with business of the first accused. She was never involved in the business and therefore claimed that no useful purpose would be solved by detaining her in cutsodial interrogation and that she does not know any details about the business.

17. The learned counsel for the third accused/son of the first accused, however stated that it is a fact that the third accused had signed as witness in some of the promissory notes which denotes knowledge of the financial transactions which the first accused had entered into with various depositors.

18. It is also seen that one further fact had emanated during the course of discussion before this Court that four properties were disposed of by the first accused and it is also seen that in all those four documents / sale deeds, the third accused/ son had signed as a witness.

19. A very strong representation is made on behalf of the intervenors before this Court that the sale deeds were malafide in nature and executed to screen away the amounts from being repaid. It is also stated that the sale consideration received had been parted to preferential creditors by the accused family and it is therefore complained that the accused persons have again joined together to deny the rightful depositors of their money. Since the third accused/son who, as a witness in the documents has direct knowledge, it is contended that he is directly involved in the business.

20. The learned counsel for the third accused stated that he has no direct contact with the business of the first accused. The learned counsel for the third accused stated that the third accused had no direct knowledge of the sale deeds executed on 13.04.2023 by the first accused.

21. The learned counsel for the fourth accused/wife of the third accused/daughter in law of the first accused, stated that she was never directly involved in business of other accused.

22. The 5th accused/daughter has not filed any application.

23. But however it is contended that as per the proceedings in W.P.No.9394 of 2023 filed by the first accused herein seeking protection for himself and for all his family members which also included the 5th accused, a direction was issued that the representations should be considered.

24. The learned Senior Counsel for the 6th accused/daughter of the first accused placed reliance on a release deed executed by 5th and 6th accused surrendering their rights in separate properties in favour of the other family members. It is therefore contended by the learned Senior Counsel that the 6th accused has been unnecessarily brought up as accused in the present case. It is contended that the 6th petitioner had married and is not residing with the accused and therefore is not either directly or indirectly connected with the business of the first accused.

25. The learned counsels for the intervenor raised strong objections to grant of any relief to any of the accused. It is contended that the sale of the four properties in April 2023 after the complaint had been lodged would effectively show that the only intention of the first accused, was to screen the properties away from the creditors. It is stated that amounts have been repaid, not to creditors, but to the confidants of the first accused. A reasonable presumption is raised that the sale consideration had been circulated only within the family of the first accused.

26. It is also stated that a complaint was given by the first accused that the creditors/investors herein had tried to coerce the first accused but subsequently the police, on investigation had found that the said complaint was not correct and that there was no evidence for the said allegation.

27. The learned counsel for the first accused once again reiterated bonafide on the part of the accused.

28. I have carefully considered the arguments.

29. The sale by the 1st accused of 4 properties in April 2023 shows malafide on the part of the first accused. Even if the decision was to sell the property to pay the creditors, this Court is of the view that the first accused had played fraud. In so far as the third accused is concerned he has direct knowledge of the entire transaction.

30. On the other hand that particular presumption cannot be raised against the second accused / wife of the first accused. Her role will have to be established during the course of trial. Even if she had knowledge in the business, it will have to be established, that she had active knowledge about the moneies being invested by the first accused and the monies not remitted back to the depositors.

31. So far as the 4th accused/daughter in law is concerned, the only aspect is the circumstances that she had married the second accused. She is not residing with the first accused.

32. The 5th accused and 6th accused are daughters of the family who have married, and are out of the family. Their innocence is a fact which will have to be examined only during the course of trial.

33. At this stage, a prima facie view can be drawn against only the first and third accused.

34. On the side of the respondent/investigating agency it is stated that custodial interrogation is required to find out the total number of investors/depositors/creditors and the properties available and also the list of persons to whom the sale consideration has been paid by the first accused required. Therefore, I hold that grant of anticipatory bail to the first and third accused would hamper further investigation and the interest of all the intervenors before this Court. In view of such matter, Crl.O.P filed by the first accused in Crl.O.P.No.15617 of 2023 and Crl.O.P filed by the third accused in Crl.O.P.No.14359 of 2023 are dismissed.

35. With respect to the other Crl.O.P.Nos.,i.e., Crl.O.P.Nos.12830, 19337 and 19880 of 2023 anticipatory bail is granted subject to the conditions that they shall each execute a bond for a sum of Rs.10 lakhs each and also produce two sureties for a sum of Rs.10 lakhs each. They shall also produce the documents of property worth Rs.1/- crore each to the satisfaction of the Magistrate Court at Cuddalore. It

must be pointed out that after this stipulation had been dictated, two of learned counsels for the intervenors stated that title deeds for property worth Rs.10/- crores must be deposited. Though this Court had acceded to that suggestion, by the time that correction was made, the learned Senior counsels for the accused had left the court hall and hence the original amount of Rs.1/- crore is retained. Let the investigation continue and thereafter at the time of trial, the other issues can be examined. Notice under Section 41-A may be issued for their appearance before the Investigation Officer and if they fail, the respondent is at liberty to file necessary application to cancel the anticipatory bail granted by this Court.

36. Accordingly, **the 2nd, 4th and 6th accused shall deposit original title deeds of immovable property worth about Rs.1/- crore each either standing in the name of the petitioners, their relatives or their friends to the credit of Crime No.1 of 2023 before the concerned Magistrate** and the petitioners in Crl.O.P.Nos.12830, 19337 and 19880 of 2023 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 is made ready, before the **learned Special Court for TNPID, Coimbatore** on condition that the petitioner shall execute a separate bond for a sum of **Rs.10/- lakhs (Rupees Ten Lakhs 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 deposit original title deeds of immovable property worth about Rs.1/- crore each either standing in their names or relatives or friends to the credit of Crime No.1 of 2023 before the concerned Magistrate;**
>
> **[c] the petitioners shall report before the respondent Police, on everyday at 10.30 a.m., until further orders;**

[d] Let the learned Special Court for TNPID, Coimbatore, test the value of the property and verify the encumbrance of the property and return the title deeds after completion of the trial.

[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.

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

17.10.2023
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