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Crl.O.P.Nos.14808, 10134, 12532, 12534, 13955 & 13906 of 2023

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13955 & 13906 of 2023

Reserved On	28.08.2023
Pronounced On	05.09.2023

RMT.TEEKAA RAMAN, J.

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offences under **Sections 120B, 379, 403, 406 and 420 IPC in Crime No.321 of 2019** on the file of the respondent police, seeks anticipatory bail.

2. The petitioners herein are arrayed as A2, A3, A5, A6, A9, A25, A27, A38, A43 and A44.

3. The case of the prosecution as per the *de-facto* complainant Jayaraman, Regional Manager for M/s.National Collateral Management Service Limited is that, the accused had availed commodity loan from M/s.Axis Bank by pledging ground nuts bag and the *de-facto* complainant was the key guardian of godown and at the time of inspection, the stock of ground nuts given as collateral security was found missing and thereby, the accused have cheated the *de-facto* complainant. Hence, the complaint.



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4. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the co-accused has been granted anticipatory bail by this Court in Crl.O.P.Nos.12442 & 13354 of 2023. Hence, he prays for grant of anticipatory bail to the petitioners.

5. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the accused have availed a loan and thereafter the petitioners and other accused has sold the ground nuts bag kept in the godown as security and cheated the *de-facto* complainant. Hence, he opposed to grant anticipatory bail to the petitioners.

6. Heard the learned counsel for the petitioners, learned counsel for the intervenor and learned Government Advocate (Crl.side) for the respondent.

7. In view of the multiple number of accused who have availed the loan against the pledging of groundnut bags, this Court has called for the status report from the Investigation Officer.



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8. After perusing the status report and also other documents filed before this Court, I find that, National Commodities Management Services Ltd. ("NCML") is engaged in procurement, storage and preservation services, collateral management services, testing and certification services, information services and other risk management services for commodities and inventories in the commodity markets, NCML, inter alia provides collateral Management services to reputed banks in India including public and private sector banks through which it facilitates e-funding against commodities through warehouse receipt.

9. They are engaged in maintenance of grain products under its control at the behest of banks, which are mortgaged against grain loans provided by banks. Banks provide them with details of grain loan recipients and based on that the banks will give loans to the customers based on the report given by them after inspecting the relevant coupons. The company will give the details of the mortgage borrowers and bank will give the details of the Grain borrowers to the company and the company will enquire and submit the report



and as per the report bank issue Loan to the Grain borrowers. The petitioner company makes an agreement with the borrower products and maintains it. As soon as the borrowers repay the loan, the grain bags will be handed over to the beneficiaries as per the bank's guidelines.

10. According to the intervenor, godown was managed by A32, A33, A34 and A35.

11. In the status report, the investigation officer has stated that, A1/Periyasamy, who faced financial crisis wanted to develop his business activities. Hence, he conspired to raise huge fund through commodity loans from banks outside of Chinnasalem area. He formed a group consisting his family members (wife, son, daughter), relatives (brother, cousin, cousin brothers, etc.), his workmen of the mill (driver, operator, load men, sweeper, etc) and friends for getting huge loan amount through commodity loans from Axis Bank, Attur, Salem District. Then A1 opened bank accounts to all the borrowers and A1 was the introducer for all the new account holders. He briefed the loan details to the borrowers. Further, A1



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identified and hired 35 private godowns in and around Chinnasalem area, said to be stocked groundnut bags there. Then he approached the Axis Bank, Attur obtained application forms, got the signatures of all the borrowers, collected relevant documents and forms from them and directly handed over at the bank. A1 along with bank staff obtained signatures from the borrower at their workspot/residence itself. None of the borrowers, except A1 went to the bank for loan process. Further A1 collected cheque leaves from all the borrowers with their signatures at the outset itself.

12. The Inspection and Vigilance Group (IVG) of NCML and Bureau Veritas of Lakshmi Vilas Bank, inspected all the 35 godowns to verify the stock of commodity between 25.06.2018 and 28.06.2018 and ascertained malpractices and misdeeds. In their inspection notes it has been mentioned that "In few godowns there was no stock, vacuum only available, can't able to enter, stock available but cannot able to count, etc". Further they ascertained that in total 68,121 bags (each having 47 Kg) belonging to Axis Bank, Attur and 18,950 bags (each 47 KG) belonging to LVB,



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Chinnasalem were stolen based on the mastermind idea of A1, A1 to A30 and A36 to A46 with the connivance of A31 to A35 (NCML staff). All these accused were colluded with each other, made breach of trust, stole pledged commodities using false keys and cheated the bank bay way of non-payment of loan dues and stealing pledged commodities for monitory benefits.

13. Notice under Section 41-A has been issued to the A1 and he has promised to pay the amount, however, not paid the amount resulted in complaint. As of now, 46 named accused were identified, in which 11 accused were arrested including the A1, 4 accused have got anticipatory bail and now, 10 accused are awaiting anticipatory bail on different forums and 21 accused are still absconding. The details & loan particulars of the petitioners herein are as follows:-

No.	Name of the defaulters	Loan amount (Rs)/Total Groundnut bags	Loan amount (Rs) as on 31.03.2023 (after payment of part settlement including auction amount)
1.	A2/A.Govindaraj	49,97,510 / 2450	17,25,032
2.	A3/A.Jaya	42,83,580 / 2100	30,50,030
3.	A5/A.Sivagami	46,91,540 / 2300	33,09,834



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No.	Name of the defaulters	Loan amount (Rs)/Total Groundnut bags	Loan amount (Rs) as on 31.03.2023 (after payment of part settlement including auction amount)
4.	A6/C.Chitra	40,40,120 / 2000	26,81,773
5.	A9/G.Kanthamani	48,95,520 / 2400	43,52,787
6.	A25/R.Saroja	48,95,520 / 2400	37,91,495
7.	A27/S.Vairam	29,11,650 / 1450	18,86,069
8.	A38/K.Elanjiyam	46,91,540 / 2300	36,63,909
9.	A43/P.Thangam	35,55,800 / 1700	15,51,576
10.	A44/R.Pounambal	50,00,000 / 2500	32,41,963

14. From the submissions of the respondent police, I find that,

1.	Total Accused	46
2.	Total No. of Godown	35
3.	Total bags of Groundnut	1,11,650
4.	Axis Bank Total Loan Amount	18,42,06,267/-
5.	LVB Bank Total Loan Amount	3,77,95,000/-
6.	Axis & LVB Banks Total Amount	22,20,01,267/-
7.	Accused Committed theft of groundnut bags	87,071
8.	Loan Amount as on Date 31.03.2023	17,39,14,604
9.	NCML Compensate the Axis & LVB Banks	9,20,02,825
10.	After committed theft, remaining bank auction amount paid in to accused/individual account	1,87,71,009

15. Thus, I find that these petitioners have availed loan and they have mortgaged the groundnut and the same was deposited,



however, they have looted the groundnut bags and thereby, dissolved the goods pledged and cheated the bank. Total worth of about Rs.10 Crores is said to have been stolen from the said godown managed by the *de-facto* complainant/NCML and as per their agreement, he has to pay the amount and he has paid certain amount to the scheduled bank.

16. After hearing the learned counsel appearing for the parties and considering the specific overt act against all these petitioners, that they availed loan and they also taken away the pledged groundnut bags in 41 godowns, based upon which bank loans has been given and subsequently, in connivance with two of the employees of the NCML has taken away the goods and sold in the open market, thereby they are said to have committed the alleged offence.

17. Considering the overt act against these petitioners and the preliminary stage of the investigation and substantial amount has to be recovered from various persons and 21 accused are still absconding, I am not inclined to grant anticipatory bail to the



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petitioners.

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18. Accordingly, these Criminal Original Petitions are dismissed.

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RMT.TEEKAA RAMAN, J.
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