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Crl.O.P.No.19344 of 2023

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Reserved on 07.09.2023	Pronounced on 14.09.2023
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G.CHANDRASEKHARAN, J.

Crl.O.P.No.19344 of 2023 is filed to enlarge the petitioner on bail in Crime No.182 of 2023 on the file of the respondent police.

2.FIR in Crime No.182 of 2023 was registered against the accused for the offences under Sections 120B, 420, 465, 467, 468 & 471 IPC.

3.Allegations made in the FIR, in brief, for the purpose of disposal of this petition, are as follows:

Defacto complainant is the branch head of Bank of Baroda, Kolathur Branch, Chennai and he is the authorized and competent person to give the complaint. Mrs.M.Sivararijani, wife of Mr.V.Muthuselvan, approached the Kolathur branch, claiming herself the Proprietor of the firm M/s.Cardaman Garden, which is running the business of restaurant under the name of Hyderabad Muhal Biriyani at Padi, Chennai. She applied for loan on 22.10.2020, for the above said firm M/s.Cardaman



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Garden. For the said loan, Mr.V.Muthuselvan gave an immovable property i.e, a land measuring 4810 sq.ft. in plot Nos. 128 & 135 at "M.G.Nagar-Part XI" [DTCP No.587/1989], comprised in old survey No.217/1, new survey No.217/1A1A1 in Adhanur Village, as collateral security. After obtaining necessary legal opinion and valuation report, a sum of Rs.98,00,000/- was sanctioned under term loan No.19680600009302 on 01.12.2020. Mr.V.Muthuselvan mortgaged the 1st property by executing the memorandum of deposit of title deeds dated 07.12.2020 registered as document No.11223 of 2020 in favour of Bank of Baroda. The said loan was additionally extended to Rs.2,33,334/- as a Covid relief measure on 13.07.2021.

3.1.Mrs.M.Sivaranjani wife of Mr.V.Muthuselvan, as proprietor of M/s.Etics Aroma, which is running the business of restaurant at MTH Road, Villivakkam, Chennai, also approached the Kolathur branch for a loan on 08.01.2021 through an application. Mr.V.Muthuselvan offered an immovable property measuring 1982 sq.ft. at "M.G.Nagar-Part X" Plot No.63, comprised in old survey No.214/10, new survey



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No.214/10A1, in Adhanur Taluk, as collateral security for the abovesaid loan. After the receipt of the legal opinion and valuation report, the bank sanctioned Rs.99,00,000/- under term loan No.19680600009521 on 02.02.2021. Mr.V.Muthuselvan mortgaged the 2nd property by executing the Memorandum of deposit of title deeds registered as document No.1718 of 2021 in favour of Bank of Baroda. This loan was additionally extended to Rs.3,45,674/- as a Covid relief measure on 12.07.2021.

3.2.Mrs.M.Sivaranjani as the proprietor of M/s.Green Leaf, which was running the business of restaurant at Ambattur Industrial Estate, Chennai, approached the Kolathur branch through an application for loan on 09.02.2021. Mr.V.Muthuselvan, had given an immovable property measuring 4860 sq.ft., in plot Nos. 126, 127 and 128 at "M.G.Nagar-Part XII" (DTCP No.432/1990] in old survey No.161/5 and 161/6, new survey No.161/5A, 161/5C &161/6 in Adhanur Village as collateral security. The bank obtained legal opinion and valuation report and sanctioned a sum of Rs.96,00,000/- under term loan No.19680600009750 on



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29.03.2021. Mr.V.Muthuselvan mortgaged the 3rd property by executing the Memorandum of deposit of title deeds dated 29.03.2021. This loan was additionally extended to Rs 2,33,602/- as a Covid relief measure on 19.07.2021.

4.Mrs.M.Sivaranjani and Mr.V.Muthuselvan failed to comply with the terms of the loans and defaulted in paying the EMI for over a period of time and became a chronic defaulter, resulting in classifying the aforesaid loan as NPA with effect from 28.10.2022. Bank initiated appropriate action under the provisions of SARFAESI Act. In an enquiry conducted by the bank, it came to light that the properties given as collateral security by Mr.V.Muthuselvan are not existing in the layouts. It was known that he had given a forged and fabricated layout. The discreet enquiry revealed that Mr.K.C.Bose of M/s.Venus Enterprises purchased various extent of lands from various persons in Adhanur Village, under the name of "M.G. Nagar - X, XI, XII, XIV, etc., and obtained DTCP approval for the said layouts. The plots were sold to various individuals. Mr.K.C. Bose executed a gift deed conveying 41370



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sq.ft of land for park in the approved layout in DTCP No.587/89 in favour of the Aadhanur Panchayat of Kundrathur Panchayath Union. Mr.K.C.Bose in connivance with Mr.Vignesh, Mrs.M.Sivaranjani, Mr.V.Muthuselvan and others, fabricated, forged and created a bogus document as if the layout in DTCP No.587/89 (MG Nagar- XI), the Park area was divided into plots. The sale deed dated 31.10.2020, was executed by Mr.K.C.Bose through his general power of attorney agent Mr.S.Vignesh, in favour of Mr.V.Muthuselvan, attaching the forged and fabricated bogus layout in DTCP No.587/89 (MG Nagar – XI). Mr.V.Muthuselvan, based on the bogus documents, mortgaged the property by executing a Memorandum of Deposit of Title Deeds, in favour of Bank of Baroda, Kolathur Branch.

5.After execution of the gift deed in favour of the Aadhanur Panchayat of Kundrathur Panchayat Union, in respect of the park area of 41370 sq.ft., Mr.K.C.Bose has no right in this property. The original DTCP approval bearing DTCP No.587/89 (MG Nagar - XI), revealed that there are only 115 regular plots. Mr.K.C.Bose executed a gift deed



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registered under document No.1540/1989, conveying 22613 sq.ft. of land for Park as per the approved layout in DTCP No.588/89 (MG Nagar-X) in favour of the Aadhanur Panchayat of Kundrathur Panchayat Union. Mr.K.C.Bose in connivance with Mr.Vignesh, Mrs. M.Sivaranjani, Mr.V.Muthuselvan and others fabricated, forged and created a bogus document as if the layout in DTCP No.588/89 (MG Nagar-X), was divided into plots. The sale deed dated 04.01.2021 was executed by Mr.K.C.Bose through his general power of attorney agent Mr.S.Vignesh in favour of Mr.V.Muthuselvan attaching the forged and fabricated bogus layout of DTCP No.588/89 (MG Nagar - X). Based on the above documents, he mortgaged the property by executing the Memorandum of Deposit of Title Deeds dated 04.02.2021. After execution of the gift deed, in respect of the Park area of 22613 sq.ft., Mr.K.C. Bose has no right, in this property. There are only 52 regular plots.

6.Mr.K.C. Bose executed a gift deed dated 06.07.1990 in respect of 37,270 sq.ft., of land for Park in the approved layout in DTCP No. 432/1990 (MG Nagar – XII) in favour of the Aadhanur Panchayat of



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Kundrathur Panchayat Union. Mr.K.C.Bose, in connivance with the said Mr.Vignesh, Mrs.M.Sivaranjani, Mr.V.Muthuselvan and others fabricated, forged and created a bogus document as if the layout in DTCP No. 432/1990 (MG Nagar - XII), the Park area, was divided into plots. The Sale deed dated 18.03.2021 was executed by Mr.K.C.Bose through his general power of attorney agent Mr.S.Vignesh in favour of Mr.V.Muthuselvan, attaching the forged and fabricated bogus documents of the layout in DTCP No. 432/1990 (MG Nagar – XII). Mr.Muthuselvan, based on the above documents, mortgaged the property by executing a Memorandum of Deposit of Title Deeds dated 29.03.2021 in favour of Bank of Baroda, Kolathur Branch. After gifting the park area of 37,270 sq.ft., Mr.K.C.Bose has no right in this property. There are only 97 regular plots in DTCP No.432/1990.

7.Based on the forged and fabricated bogus layouts of DTCP No.588/89 (MG Nagar-X), DTCP No.587/89 (MG Nagar-XI) and DTCP No.432/1990 (MG Nagar – XII), Mr.K.C.Bose, Mr.Vignesh, Mr.Muthuselvan, Mrs.M.Sivaranjani and others conspired with each



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other, created General Power of Attorney and executed the sale deeds with an intention to cheat the bank and usurp the public money. They committed the offences of manipulating, forging and fabricating the Government records, thereby, illegally obtained the loan to the tune of Rs.2,77,68,000/-. Thus, FIR came to be registered.

8.The learned counsel for the petitioner submitted that it is true that petitioner availed the loans for opening the restaurants under the name and style of M/s.Etics Aroma, M/s.Cardaman Garden and M/s.Green Leaf. In the sanction letter given in connection with these loans, there is no mention that petitioner should execute any collateral security or offer immovable property as security. The only requirement under the sanction letter is that a hypothecation document has to be executed in respect of the restaurants. Petitioner had complied with all the formalities for availing the loans. In view of the fact that petitioner was not required to furnish any immovable property for the loans, there is no question of charging the petitioner that she had indulged in fabrication of documents with an intention to cheat the bank. When the petitioner



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has not at all involved in the alleged forging of DTCP plans, the division of plots of land gifted to the panchayat and for subsequent sale of the plots in favour of the second accused, she cannot be prosecuted for the offences under Sections 120B, 420, 465, 467, 468 & 471 IPC. She is the mother of two children and her children depend on her for their daily needs and necessities. She is in judicial custody from 01.08.2023. Thus, he prays for grant of bail for the petitioner.

9.In reply, the learned Additional Public Prosecutor submitted that petitioner had availed three loans for a sum of Rs.2,77,68,000/-. Second accused is her husband. He offered his lands as security for these loans. After availing the loans, first accused did not repay the loan, resulting in treating the loan transactions as NPA. During the course of enquiry conducted by the bank and the investigation by the respondent, it was found out that the fourth accused, K.C.Bose, while developing the lands into plots, gifted certain area of the lands for common purpose, namely, for developing park. Subsequently, by forging and fabricating DTCP plan approvals, bearing Nos.587/89, 588/89 and 432/1990, the common



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land was converted to plots and sold to several persons, including the second accused. Third accused was working as a Manager under the first and second accused. K.C.Bose executed a general power of attorney deed in favour of the third accused and then the third accused had executed sale deed in favour of the second accused in respect of these properties. It demonstrates that the accused in this case had conspired in creating forged and fabricated DTCP approvals, plotting of gifted properties and then in execution of general power of attorney deed and sale deed. Using these plots as a security, first accused obtained loans, then cheated the bank by not repaying the loans. Thus, he strongly opposed the release of the petitioner on bail.

10.Considered the rival submissions and perused the records.

11.From the narration of the facts stated above, it is clear that petitioner obtained three loans narrated above, with her husband offering the plots purchased in his name as collateral security. It is no doubt unless the lands are offered as collateral security, bank would not have



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come forward to give loan to the petitioner. Second accused is the petitioner's husband and he provided the plots in his name as collateral security for the loans obtained by the petitioner. Therefore, petitioner cannot claim that there was no obligation on her part to provide security for the loan sanction.

12. With regard to the submission of the petitioner that she was not aware of the forgery and fabrication committed in respect of the DTCP approval, plotting of gifted lands, execution of general power of attorney deed and sale of property in favour of her husband, this Court is of the view that this contention of the petitioner cannot be accepted at this stage for the reason that the specific case of the prosecution is that A3 was the Manager under A1 and A2 and only through him, the property was sold in favour of the second accused. In other words, as a general power of attorney of the property developer, K.C. Bose, A3 had sold the property to the second accused. FIR in this case was registered only on 13.07.2023. Investigation in this case is in progress. It is not denied that the petitioner has not repaid the amount and the loan transactions were



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treated as NPA. Obviously, bank cannot proceed against the property gifted to the panchayat for developing park. In effect, bank has no security available to recover the loan amount. Put together, petitioner borrowed a sum of Rs.2,77,68,000/-, on the basis of a property offered by her husband as collateral security; the title of her husband in this property is questionable, and she failed to repay the amount with interest. It is a public sector bank and the money invested by the public in the bank was used for lending to the petitioner. Bank is not able to recover the loan amount.

13.In the said circumstances and also considering the fact that investigation in this case is at preliminary stage, this Court is not inclined to grant bail to the petitioner. Therefore, this Criminal Original Petition is dismissed.

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Pre-Delivery Order in
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