Crl.O.P.Nos.25842, 25844, 23784 & 26283 of 2023

C.V.KARTHIKEYAN,J.

A20 has filed Crl.O.P.No.26283 of 2023, A28 has filed Crl.O.P.No.25844 of 2023, A30 has filed Crl.O.P.No.25842 of 2023 and A32 has filed Crl.O.P.No.23784 of 2023, all in Crime No.07 of 2022, registered by the respondent police for the offences punishable under Sections 201, 204, 409, 120-B, 406, 420 & 109 r/w 34 of IPC and Sections 3, 5, 21(1), 21(2), 21(3), 23 & 25 of Banning of Unregulated Deposit Schemes Act, 2019, (BUDS Act, 2019) and Section 58(B)(1) of the Reserve Bank of India Act, 1934, and Section 5 of TNPID Act. All the petitioners herein seek bail.

2.The petitioner/A20 in Crl.O.P.No.26283 of 2023 had been remanded to custody on 25.05.2023, the petitioner/A28 in Crl.O.P.No.25844 of 2023 had been remanded to custody on 26.05.2023, the petitioner/A30 in Crl.O.P.No.25842 of 2023 had been remanded to custody on 26.05.2023 and the petitioner/A32 in Crl.O.P.No.23784 of 2023 had been remanded to custody on 09.07.2023.

3.It must also be mentioned that the petitioner/A32 had also been taken into police custody on orders granted by the Special Court, TNPID Act, Chennai, in Crime No.7 of 2022.

4.It is stated that there are totally 40 accused. A1 is the Company involved in the entire scam, A7 to A9 are Board of Directors and A18 to A40 are the heads of the Branches of the said Company at various places. The petitioners herein come under that particular category as being those who are in charge of Branches of A1 Company.

5.It is also very specifically mentioned that A20 was in charge of the Branch at Aminjikarai at Chennai, A28 was in charge of the Branch at Coimbatore, A30 was in charge as the Branch Manager at Arni and A32 was in charge as Branch Manager at Chennai, and it is stated that his name has been also registered as one of the Directors of the Company.

6.The main crux of arguments advanced by the learned counsels for the petitioners are that the petitioners were only employees of the 1st accused

Company and that they had no direct control over the activities of the 1st accused Company. It is probably imputed they are employees and were under compulsion to carryout orders of the Board of Directors. The main object of the 1st accused Company was to collect money from individuals across the State and everywhere wherever they had Branches, by promising higher returns. The actual task of spreading the network of that luring the innocent and gullible general public to part with their own hard earned money and lay with the present petitioners herein. They were the various arms of the 1st accused/Company.

7.It is however stated that their role was only to collect money from the general public and to remit it back to the 1st accused Company. It had also been stated by the learned counsels that the Board of Directors/A9 to A17 had been granted bail under Section 167(2) of Cr.P.C., consequent to investigation not being completed within the stipulated time as enunciated in the said provision from the dates of their remands. It is therefore, stated that since they had been granted bail, the petitioners herein whose roles were only minimal as compared with the Board of Directors, and certainly did not enjoy the profits of the amounts collected by them must also be considered by this Court.

8.It is also stated that one of the petitioners had joined just three days prior to the registration of FIR. It is also stated that with respect to A20, that she is afflicted with a serious disease and that she is a mother of three daughters and therefore, even if the Court were to examine the case against her on merits, it is still insisted that on medical ground she could be granted interim bail to facilitate her to get proper treatment for the afflictions which had struck her while she had been incarcerated in custody.

9.It is also contended by the learned counsels that as employees, they had also answered notices under Section 91 of Cr.P.C., issued by the respondent and they had been co-operating with the investigation process and only after a considerable period of time, had they been taken into custody. It had also been stated that there has been no recovery of cash or any other articles from these petitioners.

10.It had also been stated that investigation had been completed and final report had also been filed and the same had been taken cognizance as C.C.No.09 of 2023 by the Special Court of TNPID Act Cases, Chennai and that is a very specific circumstance which should be considered for grant of bail to these petitioners herein. It had also been stated that trial would commence and they should also be given opportunities to defend themselves properly and give necessary instructions to their counsels during the process of trial. Raising these grounds and generally insisting on their innocence in the entire operations of the Company and their ignorance of the intentions of the Board of Directors to screen the money away from the depositors, bail is also sought.

11.It is also stated that they were only pawns in the hands of the Board of Directors, and had discharged their duties as salaried employees and it is stated that there was no knowledge on their part when they received money from the depositors that the said monies would be held back by the Board of Directors and that the intention was only to receive and not to pay back the monies. It had therefore been insisted that taking into consideration the period of incarceration which had now crossed nearly more than 200 days, bail should be granted to the petitioners herein.

12.On behalf of the respondent, the learned Government Advocate (Crl. Side) very strongly disputed the contentions and objected for grant of any relief whatsoever. It is the contention of the learned Government Advocate (Crl. Side) for the respondent that nearly about Rs.2,438/- crores had been collected from the general public and it is pointed out that it would not be possible for the Company to collect such an amount but for the efforts put in by these petitioners and such other accused who are in the field convincing the general public to invest their hard earned money in the Company.

13.It is therefore stated that the role of these petitioners are very crucial not only in identifying the amounts which had been collected, but the individuals from whom they had been collected and to find out the genuinity of the claims of the depositors. It had also been contended by the learned Government Advocate (Crl. Side) for the respondent that these petitioners, have direct knowledge about the investors and therefore, are the only persons available to tamper the witnesses whenever their turn comes to depose evidence in the Court. It is also contended that bail had been granted to some of the accused only because the prosecution was not able to file their final report within the stipulated period of time. It is also stated a crucial accused had now been secured at Dubai and the Government is in the process of bringing them back to this country.

14.It is therefore contended that only when are they are brought back within the investigation fold, can further investigation to be done to reveal the actual *modus operandi*. It is stated that, in view of that particular fact, the claim for bail of these petitioners will have to be rejected by this Court.

15.It had been very specifically pointed out that so far as A20/the petitioner in Crl.O.P.No.26283 of 2023 is concerned, where the main grievance of the learned counsel was regarding her medical conditions she had defaulted in repayment of deposit of Rs.8/- crores to 320 depositors collected through direct mode and through her agents. It is also stated that there was also one property which had been purchased, though the learned counsel stated that it is stands in the name of her husband, but still there is a property which had surfaced at Poonamallee in Thiruvallur District in Patta No.23 in S.No.666 being vacant land measuring about 4161.86 sq.ft. It is contended it had been purchased on 10.02.2023 after, the entire scam had come to light. It is therefore, implied that she possessed tainted cash to enable her to purchase that particular property even thought the guideline value of that property was at Rs.12,48,600/-.

16.With respect to the statement made about her medical condition, the learned Government Advocate (Crl. Side) also forwarded a report from the Medical Officer from the Prison Hospital/Special Prison for Women, Chennai, wherein it had been stated that when she had been admitted on 26.05.2023 in jail, there were no complaints and no injuries. It had been stated that on 07.10.2023, she had complained of swelling for which she had been treated as an out patient in the out patient ward with Antibiotics and Analgesics. Thereafter, as the opinion of the Surgeon was obtained and it was diagonalized as Right Axillary Lipomatosis, fine needle surgery was prepared for her but had stated that she was not willing for FNAC (L) Axilla at Stanley Medical College. The petitioner must realize that if she has a medical condition if there are Doctors available to treat her, there cannot be any doubt over the competency of the Doctors in Stanly Medical College. She must undertake such treatment and cannot take advantage of that particular medical condition and seek interim bail.

17.It is a different matter if the treatment is not available at all and she had to be treated elsewhere but such treatment is available at Stanley Medical College and Hospital and no statement had been made across the part about the inefficiency of the Doctors at Stanley Medical College or apprehensions at their competency. Therefore, I would reject that ground on which bail is sought on medical grounds.

18.In so far as A28/petitioner in Crl.O.P.No.25844 of 2023 is concerned, it is the specific case of the prosecution that he was incharge of Coimbatore and had defaulted in repayment of Rs.12,95,60,000/- to 522 depositors. The amount is huge. The number of depositors are vast in number. It is this petitioner alone who knows about the details of those depositors. There is always a possibility of tampering of those depositors. They had already been lured into parting with their hard earned money with promise of higher returns but once again if the petitioners were to be left out there is every possibility of them being lured to settle for what is to be paid and what can be got and this would scuttle the case of the prosecution.

19.In so far as the petitioner A30 is concerned, it is stated that he is the in charge of Arni Branch and he had defaulted in repayment of Rs.18,93,000/- from 1169 depositors. In Tiruvannamalai District, which a place of agriculturists, if from 1169 depositors a sum of Rs.18,93,00,000/- had been collected, it would only tell about the loss which those investors had suffered and the agony in waiting for repayment of their amounts. When collecting those amounts the petitioner should have exercised caution as to whether there would be a possibility of the amounts which he had directly received on behalf of the 1st accused Company would be returned. It is simple mathematics which shows that each one of the 1169 depositors who had totally paid out nearly about Rs.18,93,00,000/- which is about Rs.19/- crores should have deposited a huge amount of money and that would tell on their entire life savings.

20.In so far as A32, the petitioner in Crl.O.P.No.23784 of 2023 is concerned, it is the very specific case of the prosecution that he was the custodian of huge amount of cash and he had distributed Rs.10/- crores to A22, Rs.4/- croes to A36, Rs.3.75/- crores to A20, who is also incidentally seeking bail today, having received Rs.3.75/- crores, Rs.15/- crores to A12 and Rs.25/- crores to another accused Santhakumar.

21.It is also stated that he had sent Rs.8/- crores through Hawala brokers at Dubai where one of the Managing Director is in hiding and who has now been taken into custody. It is also stated that from the possession of A32, the prosecution were able to recover Rs.10/- crores in cash and 12 luxury cars and TATA Ace vehicle which was exclusively used for transportation of cash.

22.Ordinary people use hand bags or wallets in their pocket to carry cash with them whereas these accused require a TATA Ace vehicle to transport cash which was indicates the quantity of cash in their hands, is something which still this Court cannot believe or understand. Their hunger for greed, is something to be condemned by this Court.

23.Though final report had been filed, the interest of the depositors will have to be kept in mind since each one of the depositors are known to whose accused, they should not be tampered. They should not be influenced. It is these accused who know the background of the depositors from whom they had collected the monies and it is these accused who are in a position to influence those depositors.

24.The mere fact that the prosecution has filed a charge sheet would not come to the assistance of these petitioners. Further, the fact that another accused has now been secured and there is further scope of investigation in identifying where the monies had been deposited and parked and the properties in which they had been invested and recovery of the same, bail could be granted.

25.In view of these facts, at this stage, I am not inclined to grant bail to the petitioners. But I must also address one further argument which had been put forward namely that before the Trial Court, the petitioners had been classified as Directors and now there is a change in the nomenclature and they had been reduced from the high esteemed post of Board of Directors to that of either Directors of the Branches or in charge of Branches.

26.I am at a loss to understand as to why this particular contradiction has been stated by the learned counsels as this is an aspect which could have been put during cross-examination of the prosecution. But at any rate, whether they classified themselves as Directors or as Managing Directors or as Chief Executive Officers or any other exalted positions or simple employees of the Company it is a fact they were the instruments in collecting cash from innocent depositors and cash running to crores and crores of rupees.

27.In view of all these factors, I am not inclined to grant bail to the petitioners in all the petitions. Accordingly, these Criminal Original Petition stand dismissed.

12.12.2023

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<u>C.V.KARTHIKEYAN,J.</u>

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