Crl.O.P.No.4932 of 2024

T.V.THAMILSELVI, J.

The petitioner, who was arrested and remanded to judicial custody on 13.01.2022 for the offences punishable under Sections 465, 467, 468, 471 & 420 of IPC r/w Sections 3 & 4 of Prevention of Money Laundering Act, 2002, in Crime No.2 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, the allegation as against the petitioner /A7 is that he received the certificate in form-15CB from A6 in favour of M/s.B.K.Electro Tool Products linked to the PAN No. and IEC of A2 for the ultimate use of A1, by resorting to impersonation. He handed over the certificate in Form-15CB issued in favour of M/s.B.K.Electro Tool Products to A-5 without any overt relation with A2 who is the de-jure owner. He received the certificate in form -15CB in favour of M/s.Metal Tradus from A-6 and not identifying the account holder of M/s.Metal Tradus. He received the forged identity documents and forged import documents pertains to M/s.B.K.Electro Tool Products from A8 and handed over to A5 to operate the accounts either in the name of A1 or A2 to send the proceeds of crime outside the country without revealing his involvement in the crime. He paid the commission to A5 for his work and labour of facilitating

the opening of account, taking the help of A4 and A1. Though he handed over the documents relating to M/s.B.K.Electro Tool Products linked to the PAN No. of A2 and in certain cases with photograph of A1, he was not revealing his relationship with A1 and A2 during the course of enquiry with reference to photograph. He requested A5 to open the current accounts for routing the Direct Import Bills for making Foreigh Outward Remittances in respect of M/s.B.K.Electro Tool Products. He introduced A1 by name of Mr.Kannan to A5 which is the origin of cheating by impersonation. He requested A5 to introduce A1 to A4 to open the current account in the name of M/s.B.K.Electro Tool Products. He mobilised the fund transfer in to the account of M/s.B.K.Electro Tool Products to make foreign outward remittances. He paid the commission for opening the account in the name of M/s.B.K.Electro Tool Products and routing import doucments for making fraudulent foreign outward remittances to A4 through bearer cheque and A4 encased the same with Indian Bank, Thousand Lights Branch, Chennai.

3. The learned counsel for the petitioner would submit that A6 has been discharged and the role of the petitioner is also same, hence he seeks bail to the petitioner. He further submitted that the respondent miserably failed to establish this petitioner's involvement in the offence of money laundering, by collecting

evidences based on his monetary receipts. So far there is no material available to show that petitioner was benefited monetarily. The respondent could not find and attach the proceeds of crime related income or movable or immovable property from the petitioner. Therefore he was some how made as an offender in this case by the respondent to easily conclude their case without moving ahead in catching the beneficial owners as per Section 2(1)(fa) of the Act in these transactions.

4. As per the prosecution, the Role of A6 is, he issued five certificates in form 15CB in favour of M/s.B.K.Electro Tool Products without looking into financial and business background of A1 and A2 and without any interaction with both of them. He issued five certificates in form 15CB in favour of M/s.B.K.Electro Tool Products linked to the PAN number of A2 and in the process allowed A1 to use the same in the State Bank of Travancore (now merged with SBI, Anna Salai Branch) that facilitated to make fraudulent foreign outward remittance. He issued five certificates in form 15CB in favour of M/s.B.K.Electro Tool Products and handed over the same to A7, without ascertaining the relation between A7 with A1 and A2. He also issued certificate in Form 15CB in favour of M/s.Metal Tradus and handed over the same to A7.

5. He further submitted that the petitioner / Accused is the creator of the forged Identity documents and forged import documents that were used to open the account in the name and style of M/s.B.K.Electro Tool products in the seven AD Banks to send the proceeds of Crime outside the country to the extent of USD 8,237,007.95 equivalent INR 59,47,03,760.46. The A-5 / Thiru K.Murali Krishna while giving his statement under Section 50 of the PMLA, 20023 clearly stated that he received the documents related to M/s.B.K.Electro Tool products from the petitioner / accused. Similarly, the Chatered Accountant who issued the certificate in Form 15-CB in favour of M/s.B.K.Electro Tool products also clearly stated while giving statement under Section 50 of the PMLA, 2002 that he gave the certificate at the request of the petitioner / Accused. When the statement of A-5 / K.Murali Krishna and statement of the Chartered Accountant were confronted with the petitioner / Accused, he stated that he received the documents relating to M/s.B.K.Electro Tool products from another person by name Mr.Abdul Haleem. Whereas, Abdul Haleem denied having any business / personal relationship with petitioner / Acused. The combined reading of the statement of co-accused, clearly establishes that the petitioner / Accused is the creator of forged identity and import documents that resulted in cheating by impersonation, Cheating and using forged documents as genuine. It is this crime, generated the proceeds of cirme of INR 59,47,03,760.46 in the seven accounts of M/s.B.K. Electro Tool Products

maintained with Seven different AD Banks. Therefore, submission of the petitioner / Accused is a distortion of the facts of the case and isolated reading of the grounds of arrest and liable to be rejected. The petitioner / accused siphoned off a sum of USD 8,237,007.95 equivalent INR 59,47,03,760.46 outside the country. There is every possibility the petitioner / Accused may flee from the country using the money parked outside the country.

6. On a perusal of the record, it is seen that, in fact A6 is the Chartered Accountant, he issued certificate in form 15CB, but the role of the petitioner /A7 is different, he siphoned off a sum of USD 8,237,007.95 equivalent INR 59,47,03,760.46 outside the country. There is every possibility the petitioner may flee from the country using the money parked outside the country, there is possibility of tampering the witnesses and the evidence and also found that the *prima facie* material is made out as against the petitioner.

7. Thereby, this Court does not find any change in circumstances and on considering the gravity and nature of the offence, this case needs detailed investigation and may include custodial interrogation of the petitioner, therefore, this Court is not inclined to grant bail to the petitioner.

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8. Accordingly, the Criminal Original Petition stands dismissed.

29.02.2024

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