<u>Crl.O.P.No.28909 of 2024</u>

<u>T.V. THAMILSELVI</u>

The petitioner, who was arrested and remanded to judicial custody on 02.08.2022 for the offence punishable under Section 212(6) of Companies Act, pending trial in Spl.C.C.No.1 of 2023 on the file of XV Addl. City Civil Court, Chennai in F.No.3/61/2018/CL-II (SR) on the file of Respondent police, seeks bail.

2. The case of prosecution is that the Surana Group of Company consists of three flagship companies viz., SIL, SCL and SPL and said group of companies borrowed Rs.1000 corres of money from the banks and later, they were declared as NPA and they are under liquidation under IBC. It is the further case of prosecution that the said group of companies is having total liability of Rs.10233/- crores to the banks. The petitioner has acted as MD, non-executive Director and as a promoter/share holder in the said group of companies and he had control over the Surana Group of Companies with other accused. It is the further case of prosecution is that he has acted as MD of SCL from 04.03.2004 till he resigned his post on

04.11.2015. It is alleged that this petitioner had full command and control over the operations of SCL, SIL & SPL and he had active role in obtaining loans from the banks by fraudulently showing the strength of the business with boosted figures. It is the further case of prosecution that this petitioner in connivance with the other accused persons established so many puppet companies and operated them through his employees and inflated the revenues of SCL sales in the year 2010-2014 and subsequently in overseas countries also and had shown that the SCL had exporting gold with that foreign puppet companies. It is the further case of prosecution that this petitioner with the connivance of other accused cunningly shown that the overseas puppet companies had debts to the tune of Rs.262.92 corres to SCL, thereby acquired undue advantages and siphoned the bank borrowals and also showed the manipulated revenue of SCL in the books of accounts, falsified financial statements and representations, thereby obtained various bank loans even at the time of CDR process and the outstanding due is Rs.2729.94 crores as per IBC. It is further alleged that he fraudulently shown the gold wastages as 674 kgs though it has no manufacturing activity. It is further alleged that the puppet companies, i.e. Maruthi Corporation and Maruthar Trading were established and controlled by this petitioner and by using these puppet companies, he had entered into business dealing with SCL, thereby siphoned out gold wastages in fraudulent manner and obtained fraudulent share capital influsion and siphoned a sum of Rs.34.7 crores from the said group of companies. It is also alleged that he functioned as Director of SPL from its incorporation on 19.03.2008 till 24.01.2012. It is alleged that this petitioner has diverted the funds of SIL into SPL as share capital, thereby the bank loans were lured by him. It is alleged that this petitioner and other accused siphoned the bank monies and had committed fraud punishable under Sec.447 of Companies Act, 2013. Hence, the complaint.

3. The learned counsel for petitioner would submit that the petitioner was just a non-whole time Director in Surana Power Ltd. from 19.03.2008 to 24.01.2012 and he is one of the promoter and one of the shareholder in Surana Industries Ltd. He would submit that he never was a part of Board of the said company from day one apart from he was being a shareholder. He would also submit that the petitioner was a promoter and Managing Director of Surana Corporation Ltd. till his resignation on 04.11.2015. Even prior to his resignation, he transferred all his shares to his

brother Mr.Dinesh Chand Surana on 29.04.2015. He further submitted that a charge sheet has been filed, wherein totally there are 90 accused and 125 witnesses. But, even after two years, lot of accused were not given charge sheet and the petitioner was in long incarceration for the period of 2 years 4 months from 02.08.2022. He would also submit that the proceedings initiated against him by C.B.I., Karnataka was quashed by Karnataka High Court and by relying the same, he would submit that there is a change of circumstances and prayed to grant bail to the petitioner.

4. The learned Special Public Prosecutor would further submit that now the case is riped for trial and all the accused were given copy of charge sheet. He would submit that totally 90 persons were arrayed as accused, in which, the petitioner is arrayed as A5 and nearly about Rs.100 crores were recovered and so far, no property was attached. He would submit that there are 125 witnesses to be examined. He would also submit that as per Sec.212(6) of the Act, any person shall be released on bail, unless the Public Prosecutor has been given opportunity to oppose the application for such arrest and the offence on the ground of belief. However, in the present case in hand, the court is to be satisfied that there are reasonable grounds for

believing that in future, he will not indulge in any such offence. As per Sec.212(6) of this Act, materials may be placed only before the court. If the bail is to be granted to him, the Court should believe that he would not commit any offence and the court has to substantiate prima facie he is not guilty of any offence, such prima facie has to be arrived at based on available materials. In view of direct involvement of this petitioner, prima facie appears to be guilty. Hence, he raised strong objections to grant bail to the petitioner.

5. Considering all the above facts and circumstances and on perusal of records, it reveals that the statements furnished by the petitioner, which was relied on by the learned Special Public Prosecutor prima facie proves that the petitioner is involved in the aforesaid offence, however, according to the petitioner, he has not committed any offence as he resigned from his post on 04.11.2015. By relying the order of quashing the C.B.I.'s F.I.R. before the High Court of Karnataka and also relying the long period of incarceration for more than 2 years 4 months, the petitioner's counsel prayed for bail. But, according to prosecution, they have to examine 125 witnesses and it will take some more time to commence the trial. Furthermore, while dismissing the petitioner's earlier petition seeking for bail on 08.12.2022,

this court elaborately discussed the facts and circumstances as well as on seeing the conduct of the petitioner, nothing survives for further consideration and there is no change of circumstances arose and according to the prosecution, all the accused have actively participated in the offence and so far, no recovery was made. Hence, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

28.11.2024

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<u>**T.V.THAMILSELVI, J.**</u>

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