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Crl OP No.3800 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.3800 of 2025

1. Arivalagan
2. Hitler Natesan ... Petitioners

Versus

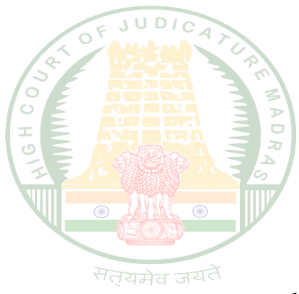
State rep.by
The Inspector of Police,
ACB/CBI/Chennai ... Respondent

Prayer: Criminal Original Petition filed under Section 482 of BNSS, to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.RCO322024A0017 on the file of the Anticorruption Branch, CBI, Chennai.

For petitioners : Mrs.S.Vetriselvi
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120B r/w 420, 468, 471 of IPC and 13(2) r/w 13(1)(a) of PC Act 1988 (as amended in 2018) in Crime No.RCO322024A0017, seeks anticipatory bail.



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2. The case of the prosecution is that A1 had obtained a housing term loan to the tune of Rs.2,65,50,000/- and Suraksha Loans to the tune of Rs.11.27 lakhs and had failed to repay the same in the year 2020 and therefore, the account was declared as NPA on 15.02.2020 and it was declared as fraud account as per the RBI guidelines; that the complaint was lodged by the bank on 23.06.2023 to the respondent and an FIR was registered.

3. Learned counsel appearing for the petitioners submitted that the offence of cheating is not made out; that it is a case of non re-payment of the borrowed amount that because of the loss caused in the business, petitioners were unable to pay the money; that there are Civil Suits and DRT proceedings pending; and that in any case, the custodial interrogation of the petitioners is not required.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police reiterated the prosecution case and on instructions submitted that the petitioners had not cooperated with the investigation and that they failed to appear pursuant to the Sec 41 A Cr.P.C Notice sent by the respondent police; that the property which was mortgated was



acquired by CMDA; that the proceedings are pending before the DRT; and that the first accused/ A1 had misappropriated the loan amount granted and transferred to the account of the second petitioner/A5.

5. Admittedly, the loan was granted in the year 2018. The account was declared as NPA on 15.02.2020. The bank has initiated proceedings under DRT which is pending adjudication. The complaint was lodged on 23.06.2023. The other accused have not been arrested.

6. Considering the aforesaid facts, the fact that the transaction took place in the year 2018 and the account was declared as NPA in the year 2020, the fact that the allegations are borne out by records, this court is of the view that the custodial interrogation of the petitioners is not required for the purpose of investigation. Hence, this Court is inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the ***learned XI Additional Special Judge for CBI Cases, Chennai*** on condition that



each of the petitioners shall execute separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

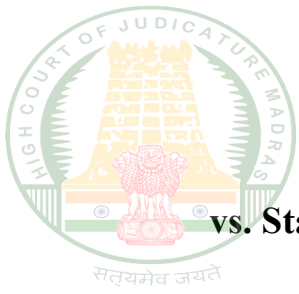
[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b]the petitioners shall report before the respondent police station daily at 10.30 a.m., until further orders;

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the Petitioners in accordance with law as if the conditions have been imposed and the Petitioners are released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji**



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vs. State of Kerala [(2005)AIR SCW 5560];

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[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 BNS.

27.02.2025

Vv

To

1. The XI Additional Special Judge for CBI Cases,
Chennai
2. The Inspector of Police,
ACB/CBI/Chennai
3. The Public Prosecutor,
High Court of Madras,
Chennai.

SUNDER MOHAN, J.



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