

IN THE COURT OF PRINCIPAL DISTRICT &
SESSIONS JUDGE AND SPECIAL JUDGE, BENGALURU
RURAL DISTRICT, BENGALURU.

Dated this the 2nd day of July 2021

PRESENT:

Sri T.N. Inavally, B.A.L., LL.B.
Principal District & Sessions Judge
and Special Judge,
Bengaluru Rural District,
Bengaluru.

Special Case No.191/2021

Complainant : State of Karnataka
by C.I.D. Police,
Bengaluru.

(Represented by the learned Prosecutor)

Vs.

Accused : Kanva Souharda Co-operative
Credit Limited and others.

Applicant/
Accused No.10 : Siddegowda
S/o late Siddappa,
Aged about 58 years,
R/at No.16, 2nd Floor,
11th A Cross, Near Bhyraveshwara Temple,
Thimmaiah Garden,
VTC Bengaluru North,
Bengaluru – 560 081.

*(Represented by
Binu M., Advocate)*

- Applicant/
Accused No.11 : Naveen Kumar
S/o Kyathaiah
Aged about 34 years,
Director,
Sri Kanva Souharda Co-operative Credit Ltd.,
Sri Sai Camp, 2nd Phase,
Modi Hospital Road, Bengaluru.
Presently R/at No.5,
13th Cross, Kansiram Nagar,
Vidyaranyaapura Post,
Bengaluru – 560 097.
- Applicant/
Accused No.12 : Prashanthkumar H.D.,
S/o late Hoovappa,
Aged about 33 years,
Chief Manager,
Sri Kanva Souharda Co-operative Credit Ltd.
No.98, Yashes, Chikkabidarakallu,
Opposite Parle-G factory,
Buddajyothi Layout, Nagasandra,
Bengaluru – 560 073.
- (Represented by
Sri S.T.N.,/Sri S.N. Advocates)*
- Applicant/
Accused No.13 : Smt. Radha Prakash
W/o G.R. Prakash,
Aged about 53 years,
Manager in Kanva Souharda Co-operative Society,
R/at No.23/1A, B.O.B. Colony,
Puttenahalli, J.P. Nagar 7th Phase,
Bengaluru – 76.
- Applicant/
Accused No.15 : Nagaraju K.,
S/o Kariyappa,
Aged about 48 years,

Manger of
Kanva Souharda Co-operative Society,
Kengeri Branch,
R/at No.171, 5th Cross, 5th Main,
Lakshmidevi Nagara,
Bengaluru – 560 096.
Native of Madihalli Palya,
Kunigal Taluk.

Applicant/ : Alex R.,
Accused No.16 S/o late Raju,
Aged about 37 years,
Chief Manager of
Kanva Souharda Co-operative Society,
Modi Branch, Rajajinagar,
R/at No.18, 9th Main,
Byraveshwara Nagar,
Nagarabavi Main Road,
Bengaluru – 560 072.

*(Represented by
Sri S.T.N./Sri S.N. Advocates)*

ORDER ON THE BAIL APPLICATIONS FILED UNDER
SECTION 439 OF THE CODE OF CRIMINAL
PROCEDURE

These applications are filed by the accused No.10, the accused No.11 and 12 and the accused No.13, 15 and 16 under Section 439 of the Code of Criminal Procedure ('Cr.P.C.' for short), praying for an order to enlarge them on bail in the case in the interest of justice.

2. The accused No.10 has filed the bail application contending that he is not part of the accused No.1 Company, as he resigned from his job on 03.04.2019. The alleged offences do not attract against him. He was not involved in and not received any benefits from the financial activities of the accused No.1 Company. Only because he was holding the post of Vice President of the accused No.1 Company his name was falsely implicated in the case without doing any preliminary enquiry.

3. The contention of the accused No.11 and 12 in their bail application is that the accused No.11 assisted various members during the functioning of the accused No.1 Company and thereafter, due to his service to the members, they elected him as Director of the accused No.1 Company. Only for the reason that the accused No.11 is the Director of the accused No.1 Company, the complainant agency tried to involve him in the case with a motive to harass him. The

accused No.12 was an employee of the accused No.1 Company and he was appointed as one among the 11 Directors and only due to such circumstance, the complainant agency tried to involve him in the case with a motive to harass him.

4. The contention of the accused No.13, 15 and 16 in their bail application is that they are mere employees of the accused No.1 Company and they were just following the orders from the Directors, as they did not have any role in running the accused No.1 Company. They were no way connected with the allegations made against them in the case and only with the motive to harass them, the complainant agency has tried to involve them in the case. Hence, the contentions of the accused No.10 to 13, 15 and 16 are that they are innocent of the offence alleged against them in the case. Therefore, the accused No.10, the accused No.11 and 12 and also the accused No.13, 15 and 16, for the grounds urged in their respective bail applications, have prayed for allowing

their applications and thereby to enlarge them on bail in the interest of justice.

5. The notice of these bail applications is furnished to the learned Prosecutor for the complainant police and he has filed objections to all the bail applications, submitting that these bail applications are not maintainable in law. There is prima facie case against the accused No.10 to 13, 15 and 16 for the offences charge-sheeted and therefore, for the reasons mentioned in the objections, the learned Prosecutor has prayed for dismissal of the bail applications.

6. Heard the arguments of the learned counsel for the accused No.10, the accused No.11 and 12 and the accused No.13, 15 and 16 and also the learned Prosecutor on the respective bail applications. Perused the relevant materials on record. Now the points that arise for my consideration are:

- 1) *Whether the accused No.10, the accused No.11 and 12 and also the accused No.13, 15 and 16 have made out any ground for enlarging them*

on bail under Section 439 of Cr.P.C., as sought for in their respective bail applications?

2) *What order?*

7. After hearing the arguments of both the parties and on considering the relevant materials on record, my findings on the above points are as hereunder:

Point No.1 : In the affirmative
Point No.2 : As per final order
For the following

REASONS

8. **POINT No.1**: The case alleged against the accused No.10 to 13, 15 and 16 along with the other accused persons is that the accused No.1 took Fixed Deposit of Rs.3 Lakh from the informant assuring that they would pay interest at 12% per annum on the said amount. The Fixed Deposit was made on 03.05.2019 by the informant and the accused No.1 gave interest to the informant on the said Fixed Deposit only for the period of 2 months. Thereafter, from the month of July 2019, the accused No.1 did not pay interest on the Fixed Deposit.

Hence, the accused No.1 cheated the informant, he being one of the depositors. On the first information of the informant Sri Srinivas S/o late Sathyanarayana, the Varthur police registered the case against the accused No.1 to 4 and took up investigation. During the investigation, the further investigation of the case was taken up by the C.I.D Police (the complainant police) and after completion of the investigation, the complainant police filed charge sheet against the accused No.1 to 7 Company and the accused No.8 to 19 including these accused No.10 to 13, 15 and 16 for the offences punishable under Sections 403, 406, 409, 418, 420, 120-B of Indian Penal Code ('IPC' for short) and Section 9 of the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2004 ('the KPID Act' for short).

9. Now the contention of the accused No.10 is that he is not aware of the financial transactions regarding the assets of the accused No.1 and therefore, he is innocent of the offences alleged against him. It is true that the accused No.10 has

produced copies of his Identity Card issued by the accused No.1 Company, his resignation letters dated 03.04.2019 for the posts of Law Officer and Vice President, to show that he resigned from his posts in the accused No.1 Company.

10. The contention of the accused No.11 and 12 is that they are employees of the accused No.1 and due to such circumstances, they were appointed as Directors of the accused No.1 Company, but they are not at all concerned with the business of the accused No.1. The contention of the accused No.13, 15 and 16 is that they are mere employees of the accused No.1 Company and they were just following the order of the Directors of the said Company and hence, they did not have any role in running the accused No.1 Company.

11. However, as submitted by the learned Prosecutor, the investigation is already over and the complainant police have filed the charge sheet against 19 accused persons including these accused No.10 to 13, 15 and 16. The accused

No.1 to 7 are Companies. It is not disputed by the accused No.10 to 13, 15 and 16 that the accused No.10 is the Vice President of the accused No.1, the accused No.11 and 12 were appointed as Directors of the accused No.1 Company and the accused No.13, 15 and 16 are employees of the accused No.1 Company. Hence, any of the contentions of the accused No.10 to 13, 15 and 16 that they are innocent of the offences alleged against them does not merit consideration at this stage.

12. However, for the sake of argument, even if it is accepted that there is sufficient material against the accused No.10 to 13, 15 and 16 for the alleged offences, any of the offences charge-sheeted is not punishable with death or imprisonment for life. Moreover, except for the fact that the offence under Section 9 of the KPID Act, all the offences charge-sheeted are exclusively triable by the Magistrate. Only for the reason that this Court is Special Court as per the KPID Act and there is offence punishable under Section 9 of the KPID Act also, the matter is before this Court for

consideration. Moreover, the maximum punishment for one of the offences alleged the accused persons is imprisonment for life, which is punishable under Section 409 of IPC.

13. Further, the contention of the learned counsel for the accused No.10, the accused No.11 and 12 and also of the accused No.13, 15 and 16 is that the prime accused is the accused No.8, who is already on bail in the case on hand. Moreover, the allegations made against the accused persons clearly go to show that the entire investigation of the case is mainly based on the concerned documents. The charge sheet is already filed. Hence, even if it is mentioned in the charge sheet that the additional charge sheet will be filed under Section 173(8) of the Cr.P.C., it does not disentitle the accused No.10 to 13, 15 and 16 to be enlarged on bail at this stage.

14. Further, in the case on hand, there is mention in the charge sheet that the additional charge sheet will be filed under Section 173(8) of Cr.P.C. Such contention of the I.O.

would clearly show that he has not done complete investigation in the case and only to avoid the period mentioned in Section 167(2) of Cr.P.C., as some of the accused persons including the accused No.10 to 13, 15 and 16 are still in judicial custody, the I.O. might have filed the charge sheet. Hence, on this ground also, the accused No.10 to 13, 15 and 16 are entitled to bail in their favour at this stage.

15. It is true that the learned Prosecutor in the objections has contended that the movable and immovable properties of the accused No.1 attached in the case are of the value of Rs.426 Crore, but the amount involved in the case is about Rs.464 Crore and there is prima facie case against the accused No.10 to 13, 15 and 16 for the alleged offences, the accused No.10 being Vice President, the accused No.11 and 12 being Directors and the accused No.13, 15 and 16 being employees respectively of the accused No.1 Company. However, as discussed herein above, the investigation in the case is based on the documents. Hence, no purpose would be

served by keeping the accused No.10 to 13, 15 and 16 in custody, that too after filing of the charge sheet.

16. The contention of the learned Prosecutor in the objections that the amount involved in the alleged offence is Rs.464 Crore does not merit consideration at this stage, as it is mentioned in the charge sheet itself that the I.O. intends to take up further investigation of the case and file additional charge sheet under Section 173(8) of Cr.P.C. Hence, the above mentioned contention of the learned Prosecutor in his objections cannot be a ground to deny bail to the accused No.10 to 13, 15 and 16 at this stage. It is not in dispute that the accused No.10 was Vice President, the accused No.11 and 12 were Directors and the accused No.13, 15 and 16 were employees of the accused No.1 Company at the relevant period. Therefore, there is absolutely no reason to keep the accused No.10 to 13, 15 and 16 in judicial custody in the case on hand.

17. Moreover, the accused cannot be allowed to remain in custody as under-trial prisoners as punishment to them regarding the offences charge-sheeted, as it is well settled principle of law that the accused should be presumed to be innocent until he is proved guilty. Proving of the guilt of the accused arises only after completion of trial of the case. Moreover, considering the veracity of the allegations and the gravity of the offences alleged in the case, it would be clear that the trial of the case will take its own time. Therefore, on this ground also, it is not desirable to allow the accused No.10 to 13, 15 and 16 remain in judicial custody in the case on hand.

18. The learned counsel for the accused No.11 to 13, 15 and 16 has produced copy of the order dated 18.06.2020 of the learned IX Additional District & Sessions Judge, Bengaluru Rural District, Bengaluru in CrI.Misc.No.103/2020, wherein the learned Additional Sessions Judge has granted anticipatory bail in favour of the accused No.1 to 4 shown in the FIR, who

are the prime accused. Those accused are concerned with the concerned accused No.1 to 7 Companies. The accused No.1 shown in the FIR is the accused No.8 as per the charge sheet.

19. Moreover, the learned counsel for the accused No.10 and the learned counsel for the accused No.11 to 13, 15 and 16 have produced copy of the order dated 04.06.2021 of the Hon'ble High Court of Karnataka in CrI.P.No.2356/2021 C/w CrI.P.No.2475/2021 wherein the Hon'ble High Court has been pleased to grant bail to the accused No.18. Further, as forthcoming on record, it is clear that this Court has granted bail to the accused No.9 and the accused No.17 and 19 as per the order dated 26.06.2021 on the bail applications filed by the accused No.9 and the accused No.17 and 19 under Section 439 of Cr.P.C. Moreover, the accused No.13 is woman. Hence, when the prima accused No.8 and the other accused No.9 and 17 to 19 are on bail, the accused No.10 to 13, 15 and 16 are also entitled to bail on the ground of parity.

20. The accused No.10 has produced copies of medical certificate, psychological assessment report and Disability certificate & Identity Card for differently abled persons in respect of his son Vinay Krishna. On the basis of those documents the contention of the accused No.10 is that if he is not released on bail, his family will be put to hardship and inconvenience. However, as discussed herein above, the accused No.10 has made out sufficient ground for granting bail in his favour at this stage, as sought for. Hence, the above referred documents produced by the accused No.10 need no consideration in support of the contention of the accused No.10 that he is entitled to bail.

21. Further, as per the address of the accused No.10 to 13, 15 and 16 mentioned in the charge sheet, the accused No.10 is resident of R.T. Nagar, the accused No.11 is resident of Kansiramanagara, Vidyaranyapura, the accused No.12 is resident of Buddajyothi Layout, Nagasandra, the accused No.13 is resident of Puttenahalli, J.P. Nagara 7th Phase, the

accused No.15 is resident of Lakshmidēvi Nagara, and the accused No.16 is resident of Byraveshwaranagara respectively of Bengaluru. Therefore, the apprehension of the learned Prosecutor that there is chance of the accused No.10 to 13, 15 and 16 absconding, in case they are released on bail, does not merit consideration on the facts of the case.

22. Any of the contentions of the learned Prosecutor put forth in the objections can be suitably met with by imposing proper and necessary conditions on the accused No.10 to 13, 15 and 16 while granting bail in their favour. Hence, the accused No.10 to 13, 15 and 16 have made out sufficient ground for enlarging them on bail as sought for in their respective applications. Consequently, the point No.1 is answered in the **affirmative**.

23. **POINT NO.2:** From the discussion made herein above, it is clear that these bail applications deserve to be allowed. In the result, therefore, I proceed to pass the

following:

ORDER

These bail applications filed by the accused No.10, the accused No.11 and 12 and the accused No.13, 15 and 16 under Section 439 of Cr.P.C. are hereby allowed.

Consequently, the accused No.10 to 13, 15 and 16 shall be enlarged on bail on their executing personal bond for Rs.2,00,000/- (Rupees Two Lakhs only) each with one solvent surety for the like sum, to the satisfaction of this Court, subject to the conditions that:

- 1) The accused No.10 to 13, 15 and 16 shall appear before this Court in the case as and when directed.
- 2) They shall appear before the I.O. as and when required and they shall assist the I.O. in further investigation, if any, in the case.
- 3) They shall not directly or indirectly make any inducement, threat or promise to the informant or any other prosecution witnesses so as to dissuade them from disclosing any facts to the Court or to the I.O.
- 4) They shall not commit similar offences or any offence during pendency of the case, and

- 5) If the accused No.10 to 13, 15 and 16 violate any of the conditions of bail during the pendency of the case, the bail granted in their favour shall stand cancelled.

*(Dictated to the Judgment Writer, typed by him and corrected and then pronounced by me in Open Court on this **the 2nd day of July 2021**)*

(T.N. Inavally)

Principal District & Sessions Judge
and Special Judge
Bengaluru Rural District,
Bengaluru.