

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

Dated this the 7th 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.14 : Kumari Manjula S.S.
D/o late N. Siddaiah,
Aged about 45 years,
Manager in Kanva Souharda Co-operative
Society, No.276, 5th main road,
AGB Layout, Chikkabanavara,
Bengaluru – 560 090.

***(Represented by
Sri G. Nataraj, Advocate)***

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

This application is filed by the accused No.14 under Section 439 of the Code of Criminal Procedure ('Cr.P.C.' for short), praying for an order to enlarge her on bail in the case in the interest of justice.

2. The accused No.14 has filed the bail application contending that she is working employee of the accused No.1 – Kanva Souharda Co-operative Credit Limited ('the accused No.1' for short) at its Malleswaram Branch and as such she does not have any sort of connection with the allegations made in the case. She is innocent of the offence alleged against her in the case. Therefore, the accused No.14, for the grounds urged in the bail application, has prayed for allowing the application and thereby to enlarge her on bail in the interest of justice.

3. The notice of this bail application is furnished to the learned Prosecutor for the complainant police and he has filed

objections to the bail application, submitting that this bail application is not maintainable in law. There is prima facie case against the accused No.14 for the offences charge-sheeted and thereby, for the reasons mentioned in the objections, the learned Prosecutor has prayed for dismissal of the bail application.

4. Heard the arguments of the learned counsel for the accused No.14 and also the learned Prosecutor on the bail application. Perused the relevant materials on record. Now the points that arise for my consideration are:

1) *Whether the accused No.14 has made out any ground for enlarging her on bail under Section 439 of Cr.P.C., as sought for in the bail application?*

2) *What order?*

5. 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

6. **POINT No.1:** The case alleged against the accused No.14 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 this accused No.14 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).

7. Now the contention of the accused No.14 is that she does not has any sort of connection to the allegations made in the case as she never worked as an Officer regarding any transactions of the accused No.1 Company within the territorial jurisdiction of Varthur Police. She was working as salaried employee at Malleswaram Branch of the accused No.1 Company. 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 this accused No.14. The accused No.1 to 7 are Company. It is not disputed by the accused No.14 that she is an employee of the accused No.1. Hence, any of the contentions of the accused

No.14 that she is innocent of the offences alleged against her does not merit consideration at this stage.

8. However, for the sake of argument, even if it is accepted that there is sufficient material against the accused No.14 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.

9. Further, the contention of the learned counsel for the accused No.14 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.14 to be enlarged on bail at this stage.

10. In the case on hand, as discussed herein above, 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.14 are still in judicial custody, the I.O. might have filed the charge sheet. Hence, on this ground also, the accused No.14 is entitled to bail in their favour at this stage.

11. It is true that the learned Prosecutor in the objections has contended that the accused No.14 being Branch Manager of Mallewsaram Branch of the the accused No.1 Company, put her signatures on FD, SN and Kanva Fashion Shares of the accused No.1 Company distributed to the customers, even though she had no authority to put such signatures and there is prima facie case against the accused No.14 for the alleged offences. However, as discussed herein above, the investigation in the case is based on the documents. The question as to whether or not the accused No.14 had power to put her signatures to the concerned documents, is a matter to be considered on the merits of the case, at the time of trial. Hence, no purpose would be served by keeping the accused No.14 in custody, that too after filing of the charge sheet. Hence, the contention of the learned Prosecutor that the accused No.14 being Manager of Malleswaram Branch of the accused No.1 Company put her signatures to the concerned documents without having any

authority, cannot be a ground to deny bail to the accused No.14 at this stage.

12. Moreover, the accused cannot be allowed to remain in custody as under-trial prisoner as punishment to him/ her regarding the offences charge-sheeted, as it is well settled principle of law that the accused should be presumed to be innocent until he/ she 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.14 remain in judicial custody in the case on hand.

13. Further, as per the papers on record, the accused No.1 shown in the FIR is the accused No.8 as per the charge sheet. The accused No.8 is already granted bail in the case. Moreover, this Court, as per the order dated 26.06.2021 and the order dated 02.07.2021 on the bail applications of the respective accused

persons, has granted bail to the accused No.9, 17 and 19 and the accused No.10 to 13, 15 and 16 respectively. Further, it is mentioned in the petition that the accused No.14 is already on bail in another similar case in Spl.Case No.192/2021 on the file of this Court. Hence, when the prima accused No.8 and other accused No.9 to 13, 15 to 17 and 19 are on bail in the case, the accused No.14 is also entitled to bail in the case on hand on the ground of parity.

14. Further, as per the address of the accused No.14 mentioned in the charge sheet, the accused No.14 is resident of Chikkabanavara, Bengaluru. Moreover, the accused No.14 is woman. Therefore, the apprehension of the learned Prosecutor that there is chance of the accused No.14 absconding, in case she is released on bail, does not merit consideration on the facts of the case. 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.14 while granting bail in her favour. Hence, the accused No.14 has made

out sufficient ground for enlarging her on bail as sought for in the application. Consequently, the point No.1 is answered in the **affirmative**.

15. **POINT NO.2:** From the discussion made herein above, it is clear that this bail application deserves to be allowed. In the result, therefore, I proceed to pass the following:

ORDER

This bail application filed by the accused No.14 under Section 439 of Cr.P.C. is hereby allowed.

Consequently, the accused No.14 shall be enlarged on bail on her executing personal bond for Rs.2,00,000/- (Rupees Two Lakh only) with one solvent surety for the like sum, to the satisfaction of this Court, subject to the conditions that:

- 1) The accused No.14 shall appear before this Court in the case as and when directed.
- 2) She shall appear before the I.O. as and when required and she shall assist the I.O. in further investigation, if any, in the case.
- 3) She 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) She shall not commit similar offences or any offence during pendency of the case, and
- 5) If the accused No.14 violates any of the conditions of bail during the pendency of the case, the bail granted in her favour shall stand cancelled.

*(Typed to my dictation by the Judgment Writer directly on Computer, and corrected and then pronounced by me in Open Court on this **the 7th day of July 2021**)*

(T.N. Inavally)

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