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

Dated this the 25th day of November 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.192/2021

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.20	:	Lingaraju S/o Gurusiddaiah, Aged about 34 years, Director of Sri Kanva Souhardha Co-operative Pvt. Ltd., R/at No.176, M.S. Nivas apartment, BEL Layout, 1st Block, Vidyaranyapura, Bengaluru - 560 0967. ***(Represented by Sri Sateesh S. Kudtarkar, Advocate)***

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

This application is filed by the accused No.20 under Section 439 of the Code of Criminal Procedure ('Cr.P.C.' for short), praying for an order to enlarge him on bail in the case in the interest of justice.

2. The accused No.20 has contended that he is innocent of the alleged offences and he is permanent resident of Bengaluru and he was working as DGM till 26.08.2019 in the Department of Marketting in Sree Kanva Fashions Limited. The case filed by the CID police against the accused No.20 is false, frivolous and vexatious. The CID police have failed to follow the due process of law. The accused No.20 has obtained anticipatory bail in Crl.Misc.No.14/2021 against the said CID police and in Crl.Misc.No.9997/2019 against the Commissioner of Police. He is ready to abide by any condition imposed by this Court while granting him bail. Therefore, the accused No.20 has prayed for allowing the application.

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 the bail application is not maintainable in law. There is prima facie case against the accused No.20 for the offences charge-sheeted and therefore, 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.20 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.20 has made out any ground for enlarging him 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.20 along with the other accused persons is that the informant Nagesh B.A. obtained membership at Sri Kanva Souharda Cooperative Credit Limited, Hosakote Branch and invested a sum of Rs.1,18,000/- on 03.11.2018 and purchased 80 shares vide certificate bearing No.23766 and 20 shares vide certificate No.24134 of the face value of Rs.1000/- each. Likewise his younger brother B.A. Suresh and younger sister B.A. Pushpa also obtained membership and purchased shares. The accused persons had assured them of giving double the amount, but they closed their office and cheated the informant, his brother and sister. On the first information of the informant Sri Nagesha B.A. S/o B.V. Anjinappa, the Hosakote police registered the case against the accused No.1 and others 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 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.20 is that he is innocent of the offences alleged against him and he has been falsely implicated in the case. 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. It is true that this accused No.20 is not shown in the accused person in the charge sheet. But, the Investigating Officer ('I.O.' for short) while filing the charge sheet has made note in the charge sheet that he intended to collect material evidence against the accused persons against whom charge

sheet is filed and also to investigate the case in respect of remaining accused persons and hence, he has made endorsement in the charge sheet that he would be filing additional charge sheet by proceeding with the investigation under Section 173(8) of Cr.P.C. Moreover, as per the contention of the accused No.20, he was the employee of the accused No.1 Company. The I.O. has produced the voluntary statement of the accused No.20 along with remand application, wherein it is clearly mentioned that the the accused No.20 is the Director of the accused No.1 Company. Hence, any of the contentions of the accused No.20 that he is innocent of the offences alleged against him 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.20 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.20 is that the accused No.8, 10 to 13, 15 and 16 have been granted bail by this Court. 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.20 to be enlarged on bail at this stage.

10. 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.20 for the alleged offences, the accused No.20 being the Director 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.20 in custody, that too after filing of the charge sheet.

11. 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.20 at this stage. It is not in dispute that the accused No.20 was Director of the accused No.1 Company at the relevant period. Therefore,

there is absolutely no reason to detain the accused No.20 in judicial custody in the case on hand.

12. Moreover, the accused No.20 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.20 to remain in judicial custody in the case on hand.

13. Moreover, the learned counsel for the accused No.20 has produced certified copies of the order dated 16.02.2021 of the learned Principal City Civil & Sessions Judge, Bengaluru in Crl.Misc.14/2021 and the order dated 16.12.2019 of the learned LXVIII Additional City Civil & Sessions Judge, Bengaluru in

Crl.Misc.No.9997/2019, wherein this accused No.20 along with other accused persons has been granted anticipatory bail in respect of the same case registered by the Cubbon Park police station in their Crime No.14/2020 and the case to be registered by the Commissioner of Police Bengaluru city regarding the same alleged case. The case on hand is initially registered by the Hosakote police and thereafter, the investigation has been taken up by the complainant CID regarding the case for the same alleged offences. Hence, when the accused No.20 has got benefit of anticipatory bail in the concerned cases, there is no reason to deny bail to him in the case on hand at this stage.

14. Moreover, the learned counsel for the the accused No.20 has drawn attention of this Court to the following decisions reported in:

1) ***AIR 1980 SUPREME COURT 1632*** **(Gurbaksh Singh Sibbia etc. Vs. The State of Punjab)**

2) ***(2011) 1 Supreme Court Cases 694*** **(Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others)**

3) ***(2014) 8 Supreme Court Cases 273* (Arnesh Kumar Vs. State of Bihar and Another)**

4) ***AIR 2008 SUPREME COURT 1126* (Som Mittal Vs. Govt. of Karnataka)**

5) ***AIR 2019 SUPREME COURT 502* (Pervinderjit Singh and Anr. Vs. State (U.T. Chandigarh) and Anr.)**

6) ***(2010) 1 Supreme Court Cases 679* (HDFC Bank Limited Vs. J.J. Mannan @ J.M. John Paul and another)** and

7) ***1982 CRI.L.J.2197* (In re Digendra Sarkar and others).**

Relying on the principles of law laid down in the above referred decisions, the submission of the learned counsel for the accused No.20 is that the complainant CID has failed to follow the procedure as per the guidelines of the Hon'ble Apex Court while arresting the accused No.20 in the case. Hence, the submission of the learned counsel for the accused No.20 is that the accused No.20 is entitled to bail in the case in view of the principles of law laid down in the above referred decisions.

15. Further, as per the address of the accused No.20 mentioned in the remand application, the accused No.20 is resident of Vidyaranyapura of Bengaluru. Therefore, the apprehension of the learned Prosecutor that there is chance of the accused No.20 absconding, in case he 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.20 while granting bail in his favour. Hence, the accused No.20 has made out sufficient ground for enlarging him on bail as sought for in the application. Consequently, the point No.1 is answered in the **affirmative**.

16. **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.20 under Section 439 of Cr.P.C. is hereby allowed.

Consequently, the accused No.20 shall be enlarged on bail on his 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.20 shall appear before this Court in the case as and when directed.

2) He shall appear before the I.O. as and when required and he shall assist the I.O. in further investigation, if any, in the case.

3) He 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) He shall not commit similar offences or any offence during pendency of the case, and

5) If the accused No.20 violates any of the conditions of bail during the pendency of the case, the bail granted in his 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 25th day of November 2021)***

(T.N. Inavally)
Principal District & Sessions Judge
and Special Judge
Bengaluru Rural District,
Bengaluru.