

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL &
SESSIONS JUDGE
Mayo Hall, Bengaluru, [CCH.NO.29]**

Present: - Smt. B.S. Bharathi, B.Sc., LL.B.

Dated: This the 5th day of February 2020

Crl.Misc.No.25040/2020

Petitioner: Mr. Pankaj Gotawat,
S/o Mr. Kushal Raj,
Aged about 42 years,
Authorised Officer,
Deutsche Bank A.G,
Raheja Towers,
No.26/27, M.G.Road,
Bangalore-560 001.

(Pleader By : M.G.C & Co.)

.. Vs ..

Respondent: 1. The State by Ashok Nagar Police
Station,
Bangalore.

2. Mr. Shaeik Mohammed
Sayeedulla,
S/o Late B. Mohammed Saifulla,
Aged about 27 years,
No.16, C Street, Haines Road,
Cleve Land Town Frazer Town,
Bangalore-560 005.

(By Public Prosecutor)

ORDERS

This petition is filed by the Petitioner under Section 438 of Cr.P.C., praying for enlarging him on anticipatory bail in Cr.No.266/2019 of Ashok Nagar Police Station for the offences punishable under Section 419, 420, 465, 468 r/w 34 of IPC.

2. According to the Petitioner, the Complainant has filed private complaint on the file of XLIII ACMM, Bangalore in PCR No.54043/2019, alleging that the Petitioner being the Authorized Officer of Deutsche Bank A.G had issued Notice under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, with respect to the property for which the 2nd Respondent is the absolute owner demanding the loan amount outstanding in the account of M/s Shaheed Poultry Processing. In this case, the 2nd Respondent earlier M/s Shaheed Poultry Processing represented by its Proprietor Mr. Mohammed Shaheedulla had availed loan from HDB Financial Services and the 2nd Respondent had offered

the property as security. Later the same was discharged on 16.11.2015. Whereas it is further stated that the 3rd accused Mr. Mohammed Shaheedulla further availed loan from Bajaj Finance Ltd., as a GPA Holder of the 2nd Respondent had mortgaged the very same property. The 2nd Respondent contended that he was out of India and go Maldives and did not ever executee the General Power of Attorney in favour of his brother. Mr. Mohammed Shaheedulla by making use of the forged and created Power of Attorney Mr. Mohammed Shaheedulla had mortgaged the property in question in favour of M/s Bajaj Finance Ltd., on 19.1.2016. The 2nd Respondent further contended that he is not aware about the 3rd accused Mr. Mohammed Shaheedulla availing loan from M/s Deutsche Bank A.G and mortgaging the said property in favour of the said Bank, during his lifetime. At no point of time the 2nd Respondent had mortgaged the property in question in favour of the said Deutsche Bank A.C., and hence alleged that his brother who is deceased now colluded with the Bank Officials and availed the loan by

mortgaging the property without his knowledge.

3. It is submitted that basing on the complaint the Hon'ble XLIII ACMM was pleased to refer the matter to the 1st Respondent for investigation and police have filed case in Cr.No.266/2019 for the offences punishable under Section 419, 420, 465, 468 r/w 34 of IPC against the Petitioner, Deutsche Bank A.G and deceased Mohammed Shaheedulla. The 2nd Respondent is threatening the Petitioner that he will make the police to arrest the Petitioner and hence the Complainant has filed this petition.

4. According to the Petitioner, the present complaint was filed after the death of Mohammed Shaheedulla making the deceased also as a party. Initially the above said parties including the 2nd Respondent availed loan from HDB Financial Services Ltd., by mortgaging the above said property. Thereafterwards, Bajaj Finance Ltd., had taken over the said loan facility at the request of M/s Shaheed Poultry Processing in which all the above said parties were

borrowers who have mortgaged the first floor of the above said property under the registered Memorandum of Deposit of Title Deeds dtd: 19.1.2016. It is to be noted that the above said parties/borrowers approached Deutsche Bank A.G for taking over the existing loan from M/s Bajaj Finance Ltd., and also to extend additional loan facilities to them. In that regard, all the above said parties had several correspondence with the said M/s Bajaj Finance Ltd., and also with Deutsche Bank A.G which is the 2nd accused in the complaint. Hence, 2nd Respondent cannot dispute availing the loan facilities and mortgaging the said property and executing the said documents in favour of Deutsche Bank A.G.

5. According to the Petitioner, he is innocent of the offences alleged against him. He is ready to abide by any conditions imposed by this Court. Hence, prays for allowing the petition.

5. The Prosecution has filed objections to this petition contending the facts stated in the complaint and also stated that if the accused is released on bail he

may tamper the witnesses and abscond from the jurisdiction of the Court and prays for dismissing the petition on several other grounds.

6. Heard, both the sides.

7. Basing on the above said facts, following points that arise for my consideration are:

“Whether the Petitioner has made out ground for granting anticipatory bail under Section 438 Cr.P.C.,?”

8. My findings on the above point is in the Affirmative for the following:-

REASONS

9. On perusal of the nature of the offences alleged against the Petitioner, it is clear that it will not require for custodial enquiry and the offences are not punishable with death or imprisonment for life. Hence, I feel that Petitioner has to be released on bail by imposing conditions to cover the apprehension of the PP. Hence, I answer point No.1 in the Affirmative.

9. In view of answering Point No.1 in the affirmative, I pass the following:

ORDER

The Petition filed by the Petitioner under Sec.438 Cr.P.C., is allowed.

The Petitioner is ordered to be released on bail on his executing personal bond for a sum of Rs.1,00,000/- with one surety for the like sum in the event of his arrest by the respondent police in Cr.No.266/2019 for the offence punishable under Section 419, 420, 465, 468 r/w 34 of IPC registered against him on the following conditions:-

i. The Petitioner shall surrender before the Jurisdictional Court within a period of one month and furnish the bail and surety as per this order.

ii. The Petitioner shall not threaten the complainant and shall not tamper the prosecution witnesses directly or indirectly.

iii. The Petitioner shall not repeat similar offences in future.

iv. The Petitioner shall produce his passport size photograph with the address proof and also of the surety to the satisfaction of the Jurisdictional Magistrate and the I.O.

v. The Petitioner shall appear before the I.O once in 15 days preferably on a Sunday between 10-00 am to 2-00 pm till the filing of the final report or for the period of three months whichever is earlier.

[Dictated to the Stenographer on 5.2.2020 thereafterwards, the same was transcribed and typed by her and the same was correct, signed and pronounced by me on 5th day of February 2020].

[B.S. Bharathi],

XXVIII. Addl. City Civil Judge,
Mayo hall, Bengaluru.

Orders pronounced in open court
as under (vide separately):-

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[B.S. Bharathi],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bengaluru.

