

**IN THE COURT OF THE LVII ADDL. CITY CIVIL
AND SESSIONS JUDGE, AT MAYO HALL,
BENGALURU
(CCH-58)**

Present:

Smt. K.G. SHANTHI B.Com. LLM.
LVII Addl.City Civil & Sessions Judge,
Bengaluru

Dated this the 26th day of March, 2021

Crl.Misc.No.25369/2021

Petitioner: **Mrs. Sujana Nemali,**
D/o.Late N.P. Murthy,
Aged about 46 years,
Credit Manager,
Deutsche Bank A.G.,
Raheja Towers,
No.26/27 M.G.Road,
Bengaluru – 560 001.

[By M.G.C. & Co., Advocates & Solicitors)

Crl.Misc.No.25370/2021

Petitioner: **Mr. Cyril Jose,**
S/o. Joseph,
Aged about 43 years,
Regional Sales Manager,

Deutsche Bank A.G.,
Raheja Towers,
No.26/27 M.G.Road,
Bengaluru – 560 001.

[By M.G.C. & Co., Advocates & Solicitors)

/Vs./

Respondent: State by **Ashok Nagar**
Police Station, Bengaluru.

[By Public Prosecutor]

COMMON ORDER ON PETITION u/S. 438 Cr.P.C
FILED BY THE PETITIONERS.

The Petitioners filed this petition seeking anticipatory bail stating that respondent-police registered the case in Crime No.267/2019.

2. The brief facts of the case is that:-

The Petitioner Mrs.Sujana Nemali is working as Credit Manager and the Petitioner Mr.Cyril Jose working as Regional Sales Manager in Deutsche Bank

A.G., M.G.Road, Bengaluru. That One Mr.Shaeik Mohammed Sadiqulla filed a private complaint before XLIII Addl.Chief Metropolitan Magistrate, Bengaluru in PCR No.54049/2019 alleging that Mr.Pankaj Gotawat being Authorized Officer of Deutsche Bank had issued notice under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, with respect to the property, demanding outstanding loan amount. Further contended that he is not aware that 3rd accused Mohammed Shaheedulla availed loan from M/s.Deutsche Bank and mortgaged property in favour of the Bank. Hence, he filed complaint before the Court. The Court referred the matter u/S. 156(3) Cr.P.C. for investigation. In this regard, respondent-police registered a FIR in Crime No.267/2019 for the

offence punishable u/Ss.419, 420, 465, 468 r/w.34 of IPC.

3. The Petitioners contended that they are discharging their duty as Officers based on the documents available before the Bank. They are innocents and not committed any offence as alleged in the complaint. They are law abiding citizens and permanent residents of Bengaluru. A false complaint has been filed against them with an intention to restrain the Bank from recovering its debts in a legitimate manner. Further stated that these Petitioners are not involved in any of the offences and they hail from decent, respectable family having deep roots in the Society.

4. The Petitioners stated that since FIR has

been registered against them, they are under the apprehension of arrest by the police. Further stated that they are ready and willing to offer surety and they will co-operative to the IO or any other persons in the matter whenever required. Further they undertake to appear before the Court as and when called for and they are ready to abide by any of the conditions imposed by this Court. Accordingly, pray for grant anticipatory bail in Crime No.267/2019 registered before the respondent-police.

5. The Public Prosecutor filed objection stating that the investigation is in preliminary stage. If at this stage Petitioners are granted with anticipatory bail, there may be chance of tampering the witnesses and there is chance of absconding and may cause

hurdle for investigation. Since from the date of filing FIR, they are absconded. Accordingly, prays for reject the bail application.

6. Arguments heard. Perused the records available before the court.

7. The points arose for my consideration are:

1. Whether the petitioners are entitled for bail u/S. 438 of Cr.P.C.?
2. What order?

8. My findings to the above points are under:

Point No.(1) : In the **Affirmative**

Point No.(2): As per final order
for the following:

REASONS

9. **Point No.1:-** The record produced by the prosecution reflects that the respondent-police after registering the case issued Notice to the Petitioners

calling upon them to produce the documents. Accordingly, they have produced documents before the Investigating Officer for investigation. In this case, respondent-police registered FIR against Petitioners for the offence punishable u/Ss.419, 420, 465 and 468 r/w.34 of I.P.C. The alleged offences are non-bailable in nature.

10. Further, all these Petitioners are discharging their duty in Deutsche Bank, Bengaluru. The Petitioners do not have any personal interest. On the other hand, Notice has been issued under SURFEASI Act to the borrowers. According to complainant, he has not come across about mortgaging property in favour of Bank. If it is so, it should be questioned before either Tribunal or any Court. The nature of

dispute is Civil in nature. Such being the circumstances, I am of the opinion that since the Petitioners are the Officers of the Bank and still they are discharging their duty, chance of absconding is very weak. The apprehension of the prosecution that the Petitioners may not assist the I.O. for investigation, in my opinion, the said apprehension can meet out by imposing conditions. Since, Petitioners are Officers of the Bank and if they got arrested, they may put under humiliation and it affects their career. So, I am of the opinion that this is a fit case to grant anticipatory bail by imposing conditions. Hence, point No.1 answered in **affirmative.**

12. **Point No.2:** On the above findings, I proceed to pass the following:-

ORDER

The petition filed by the petitioners **Mrs.Sujana Nemali** D/o.Late N.P.Murthy (in Crl.Misc.No. 25369/2021) and **Mr.Cyril Jose** S/o.Joseph (in Crl.Misc.No. 25370/2021) u/S.438 of Cr.P.C. with respect to Crime No.267/2019 of Ashok Nagar Police is hereby allowed with following conditions:

1) The petitioners shall execute personal bond for Rs.50,000/- each with one surety for like sum to the satisfaction of the committal court.

2) They shall not directly or indirectly make any inducement, threat to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

3) They shall appear before the IO whenever summoned for the purpose of investigation.

4) They shall not tamper witnesses of the prosecution.

(Dictated to the Judgment writer, transcribed and computerized by him, corrected and then pronounced by me in the open court on this the 26th day of March, 2021)

(Smt.K.G.SHANTHI)

LVII Addl. C.C.& Sessions Judge,
M.H.Unit, Bengaluru.

Common Order pronounced in open
court (vide separate order)

ORDER

The petition filed by the
petitioners **Mrs.Sujana Nemali**
D/o.Late N.P.Murthy (in
Crl.Misc.No. 25369/2021) and
Mr.Cyril Jose S/o.Joseph (in
Crl.Misc.No. 25370/2021) u/S.438
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LVII Addl. CC& Sessions Judge,
M.H.Unit, Bengaluru.