

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13<sup>TH</sup> DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.2014 OF 2023

BETWEEN

SRI G RAGHUNATH  
S/O SRI GURUDUTT S  
AGED ABOUT 52 YEARS  
R/AT NO 65, OLAVU  
2ND STAGE, BEML LAYOUT  
BASAVESHWARANAGAR  
BENGAURU 560079

... PETITIONER

(BY SRI. SRINIVAS RAO S.S., ADVOCATE)

AND

DIRECTORATE OF ENFORCEMENT  
REP. BY THE ASSISTANT DIRECTOR  
GOVERNMENT OF INDIA  
BENGALURU ZONAL OFFICE  
3RD FLOOR, B BLOCK,  
BMTc SHANTHINAGAR TTMC,  
K H ROAD  
BENGALURU 560027

...RESPONDENT

(BY SRI MADHUKAR M. DESHPANDE, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO DIRECT THE DIRECTORATE OF ENFORCEMENT TO RELEASE THE PETITIONER FORTHWITH ON REGULAR BAIL IN CONNECTION WITH ECIR NO.BGZO/9/2020 PENDING BEFORE THE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-1) FOR THE OFFENCE PUNISHABLE UNDER SECTION 4 OF THE PREVENTION OF MONEY LAUNDERING ACT 2002 REGISTERED ON 29.02.2020.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 5.4.2023, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by petitioner accused No.17 under Section 439 of Cr.P.C. for granting bail in ECIR No.BGZO/9/2020 pending on the file of the Principal City Civil and Sessions Judge, Bangalore for the offence punishable under Section 4 of Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'PML Act').

2. Heard the arguments of learned Senior Counsel for the petitioner and learned counsel for the respondent-Directorate of Enforcement (ED).

3. The case of prosecution is that the office of Registrar of Co-operative Societies issued a letter on 23.01.2020 to the respondent-ED to investigate into the lapses and irregularities in respect of functioning of Sri Guru Raghavendra Sahakara Bank Niyamitha (hereinafter

referred to as 'Bank'), wherein the said bank had allegedly created fake deposits, loans were sanctioned without any documents. The President, Vice President and Managing Director have been responsible for losses of Rs.1556 crores. Accordingly, the respondent registered the case on 29.02.2020 and initiated investigation. Upon conclusion of preliminary investigation in PCR No.12/2022, the trial Court took cognizance under the PML Act and permitted the respondent-ED to file additional complaint. On 17.03.2022, the cognizance was taken against the accused therein under the PML Act and the special case has been registered and summons were issued to accused No.1 to accused No.16. After summoning by the respondent-ED, the petitioner appeared and on 28.06.2022, the police arrested the petitioner alleging that he has availed loan of Rs.105 crores from the aforesaid Bank and Rs.139.85 crores is outstanding balance with interest payable to the Bank. It is further alleged that the petitioner has siphoned off Rs.46.00 crores to M/s. Samrudhi Enterprises and not provided any documents. The earlier bail petition of the

petitioner came to be rejected on 28.07.2022 by the trial Court. The petitioner being aggrieved by the said order, approached this Court in Criminal Petition No.7993/2022 and this Court rejected the said petition on 30.09.2022. Now, he is before this Court with additional grounds.

4. Learned counsel for the petitioner has contended that the petitioner is innocent of the alleged offence. The petitioner has borrowed loan, but it does not attract the offence under the provisions of PML Act and he is the *bona fide* borrower. Accused No.1 Bank has not initiated any proceedings against him. Accused No.1 has mismanaged the funds of depositors and not against this petitioner. The learned counsel for the petitioner has further contended that the petitioner is suffering from cervical spondylosis, irritable bowel disorder, liver disease, hypertension and severe depression. He is taking treatment in NIMHANS and suffering from heart disease and he is taking the treatment continuously. It is also contended that the respondent-ED is relying upon the

proceedings in Crime No.69/2020 registered by Basavanagudi police wherein the petitioner is arraigned as accused No.23 and he has been granted anticipatory bail for the very same allegation made against him. The petitioner is ready to abide by any condition. Hence prayed for granting bail.

5. Per contra, learned counsel for the respondent-ED filed objection stating that as per the statutory instruction report of RBI, the petitioner herein is the first among 24 major beneficiaries who has availed loan of Rs.105 crores from the Bank and he has transferred Rs.45 crores to M/s. Samrudhi Enterprises, an entity owned by the petitioner. As per the statement of one Ramakrishna, Ex-president of the Bank, the crime proceeds were generated. The petitioner was summoned on various dates by the respondent-ED and he was not accounted for Rs.60 crores received by way of cash and Rs.30-35 crores loan was sanctioned to his friend one Ramesh in the name of M/s. Samrudhi Enterprises. The learned counsel also

contended that there were cash deposits found i.e. Rs.76.00 lakhs for the financial year 2014-15, Rs.37.00 lakhs for the financial year 2015-16, Rs.27.00 lakhs for the financial year 2016-17, Rs.16,86,000/- for the financial year 2017-18 and Rs.8,38,830/- for the financial year 2019-20, which show that the petitioner has deposited the amount in the firm of film production, which appears to be suspicious. The account of the petitioner reveals that he was the mastermind against the fraud in the said bank and he has transferred Rs.1.08 Crores to one Maiya from M/s.SRV Solutions and the money transferred to Maiya appears to be kick-backs sent by the petitioner for the huge loans he has received from the Bank. The petitioner has not made out any fresh grounds and he is has an active involvement in the money laundering business. Hence, prayed for dismissing the petition.

6. Having heard the learned counsel for the parties, perused the records and also the objection statement filed

by the respondent-ED, which reveals that the Basavanagudi police registered a case against President of Sri Guru Raghavendra Sahakara Bank Niyamitha in Crime No.69/2020. Subsequently, the respondent-ED registered a case and filed a complaint against the petitioner and accused No.18. It is alleged that the petitioner borrowed the loan of Rs.105 crores. The President of the Bank and one Ramakrishna, who is also the Director of the Bank granted loan without obtaining adequate security. The petitioner is said to be granted bail by the trial Court in the predicate offence. The allegation against the petitioner is that he has borrowed the loan of Rs.105 crores and did not return the same and that he has used the same for money laundering. The petitioner is said to have received Rs.60 crores by way of cash and Rs.46 crores by RTGS. Further the petitioner said to have given proper security and obtained the loan and he has invested the same in some other business i.e. in M/s.Samrudhi Enterprises. The earlier bail petition of this petitioner came to be rejected on 30.09.2022 in Criminal Petition No.7993/2022. The

petitioner is in custody for more than ten months. Investigation is completed. Co-accused No.18, who was also one of the borrowers, has been granted bail by the Sessions Judge on 03.08.2022 and the copy of the bail order is produced before this Court. The petitioner is also one of the borrowers and he is also said to be involved in money laundering business.

7. The only contention is that the petitioner has not accounted for Rs.60 crores obtained by him by way of loan. The same contention was taken by the learned counsel for respondent-ED in the earlier bail petition and this Court rejected the petition. The learned counsel for respondent-ED is urging the same ground till this date. However, the respondent-ED has attached some of the properties of the petitioner without verifying the cash deposits as per the statement made by the respondent at para 9A of its objection statement. The total amount of Rs.1,65,24,830/- has been deposited by the petitioner. The FD certificates are also attached by the respondent-



ED. The entire allegation goes against the Bank Directors who have lent the loan and they are not able to collect the amount to the tune of Rs.1,500 crores. The petitioner is only the borrower.

8. That apart, the petitioner is said to be suffering from the various ailments including heart decease and other deceases as per the medical report submitted by the learned counsel for the petitioner. The petitioner is continuously under treatment from the year 2020 onwards at Aster RV hospital and Victoria hospital apart from Jayadeva hospital on various dates which reveals that the petitioner requires further treatment and the treatment may not be sufficient, if it is provided in the jail hospital.

9. Therefore, considering the facts and circumstances of the case and that the petitioner is in custody for more than ten months and the co-accused having the similar allegation has been granted bail by the Sessions Judge, and also that almost investigation is

completed against the petitioner and also on the medical ground, the petitioner is entitled for bail.

10. Accordingly, the petition is allowed.

The trial Court is directed to release the petitioner-accused-17 on bail in ECIR No.BGZO/9/2020 registered by respondent-ED, subject to the following conditions:

- (i) Petitioner-accused shall execute a personal bond for a sum of Rs.25,00,000/- (Rupees Twenty-five Lakhs only) with two sureties for the likesum to the satisfaction of the trial Court;*
- (ii) Petitioner shall not indulge in similar offences strictly;*
- (iii) Petitioner shall not tamper with the prosecution witnesses directly/indirectly;*
- (iv) Petitioner shall cooperate with the investigation officer for any further investigation;*

- (v) *Petitioner shall not leave the jurisdiction without prior permission of the Court;*
- (vi) *Petitioner shall surrender his passport to the investigation officer;*
- (vii) *Petitioner shall furnish the address where he resides.*

**Sd/-  
JUDGE**

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