

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.8946 of 2014

The State rep. by
The Inspector of Police,
Tirumullaivoyal Police Station,
Chennai City. Petitioner

Vs

1.P.S.Shankar Ganesh
2.R.Sathishkumar ... Respondents

Criminal Original Petition filed under Section 439(2) Cr.P.C. to cancel the bail granted to the respondents / accused No.2 and 3 by the learned Principal Sessions Judge, Tiruvallur District in Crl.M.P.No.1286 of 2014 dated 27.3.2014.

For Petitioner : Mr.S.Shanmugha Velayatham,
Public Prosecutor.

ORDER

The present criminal original petition has been filed by the petitioner to cancel the bail granted to the respondents 1 and 2 / accused Nos.2 and 3 by the learned Principal Sessions Judge, Tiruvallur District in Crl.M.P.No.1286 of 2014 dated 27.3.2014.

2. The respondents 1 and 2 are accused Nos.2 and 3 in Crime No.253 of 2014 for the offence under Sections 341, 147, 427, 448 and 506(i) I.P.C., altered into one under Sections 147, 420, 448, 341, 427, 506(i) I.P.C. r/w Section 3 of TNPP (D & L) Act and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 on the file of the petitioner herein.

3. It is the case of the prosecution that on 16.3.2014, the de facto complainant- Palanisamy lodged a complaint stating that he is the Managing Director of Galaxy Amaze System Limited having office at Ambattur. In order to meet out his financial needs, he borrowed a sum of Rs.65,00,000/- from A.1, who is the owner of JD Group. Thereafter, he executed a mortgage deed and a deed of power of attorney in favour of the respondents 1 and 2 respectively, who are the benamies of A.1 and A.1 had assured him to give a sum of

Rs.1,00,00,000/- as loan amount with interest at the rate of 24% per annum. But, A.1 had given him only a sum of Rs.65,00,000/-, that too, after taking a sum of Rs.3,00,000/- for the first respondent as commission and further deducting a sum of Rs.5,00,000/- as the first instalment. Thus, the de facto complainant had received only a sum of Rs.57,00,000/- from A.1. Thereafter, the de facto complainant had returned a sum of Rs.72,00,000/- in a span of six months and asked A.1 to return the deeds given in favour of respondents 1 and 2. But, A.1 and his henchmen threatened and intimidated him to pay more amount. Further, when the de facto complainant went to T.Nagar to his relative's house, the respondents 1 and 2 along with A.1 and others had come to his house and intimidated his watchman, trespassed into his house, damaged the floor of the portico and erected a long wall to the height of 3 feet using bricks and escaped from the spot. Hence, the present complaint and based on the said complaint, a case was registered in Crime No.253 of 2014 for the offence under Sections 341, 147, 427, 448 and 506(i) I.P.C., which was altered into one under Sections 147, 420, 448, 341, 427, 506(i) I.P.C. r/w Section 3 of TNPP (D & L) Act and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. Thereafter, the respondents 1 and 2 were arrested on 19.3.2014 and 17.3.2014 respectively and produced before the Judicial Magistrate Court, Ambattur and remanded to judicial custody. Later, the respondents 1 and 2 filed a bail petition before the learned Principal Sessions Judge at Thiruvallur District in CrI.M.P.No.1286 of 2014 and the learned Principal Sessions Judge, by order dated 27.3.2014 granted bail to them. Now, the present petition has been filed by the petitioner for cancellation of the bail granted by the learned Principal Sessions Judge, Thiruvallur District on the following grounds viz.,

(i) The learned Principal Sessions Judge, Tiruvallur has failed to note the affidavit dated 27.3.2014 filed by the petitioner before the Judicial Magistrate Court, Ambattur, Chennai praying for the custodial interrogation of the respondents 1 and 2.

(ii) The investigation is in preliminary stage and hence, allowing the respondents 1 and 2 on bail would cause tampering of witnesses and the relevant records connected to the case by the accused.

(iii) There are many witnesses to be examined and records connected to the case to be collected.

(iv) The vehicles (Cars and Bikes) used by the accused in committing the crime are to be seized.

(v) As the respondents 1 and 2 are the prime accused in this case, custodial interrogation is essential to unearth many facts and circumstances connected to the case.

4. I have heard the submissions made by the learned Public Prosecutor and perused the entire materials available on record.

5. Though the present petition has been filed to cancel the bail granted to the respondents 1 and 2 on the above said grounds, during the course of arguments, learned Public Prosecutor has fairly submitted that the investigation in this case is almost completed. Since the investigation in this case is almost completed, I am of the opinion, absolutely, there is no need to cancel the bail granted to the respondents 1 and 2 at this juncture. Further, almost 1-1/2 years have lapsed from the date of granting bail. Therefore, I do not find any valid ground to cancel the bail already granted to the respondents 1 and 2.

6. In fine, the criminal original petition is dismissed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

sbi

To

1. The Principal Sessions Judge,
Tiruvallur District.
2. The Inspector of Police,
Tirumullaivoyal Police Station,
Chennai City.
3. The Public Prosecutor,
High Court, Chennai.

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