

C r I . O . P . N o . 1 8 8 5 3 o f 2 0 1 6

R . M A L A , J .

The petitioner is arrayed as A-1 and he was arrested and remanded to judicial custody on 03.08.2016 for the alleged offence punishable under Sections 406, 420 and 506(i) IPC, in Crime No.383 of 2014 on the file of the respondent police and hence, prays for enlargement on bail.

2.The learned Senior Counsel for the petitioner would submit that the petitioner was arrayed as A1 and he is neither the partner of M/s.Visalam Promoters nor the recipient of the money from the defacto complainant. He would further submit that the defacto complainant had paid Rs.1 Crore to M/s.Visalam Promoters, in which A2, who is none other than the wife of A1/petitioner is a partner. A3 is the managing partner and A4 is the husband of A3. The learned Senior Counsel would further submit that A2 was already arrested and enlarged on bail. Furthermore, since A3 and A4 were arrested, they filed

Crl.O.P.No.24787 of 2015 to quash the FIR and the FIR has been quashed on the basis of the no objection given by the defacto complainant, as A3 and A4 agreed to repay the amount of Rs.1 Crore. Since the FIR against A3 and A4 has been quashed, nothing survives in the FIR and hence, the learned Senior Counsel prays to enlarge the petitioner on bail.

3.Resisting the same, the learned counsel appearing for the defacto complainant/intervenor would submit that he had parted with Rs.1 Crore for purchase of the property to M/s.Visalam Promoters, in which A2 is the partner and A4 is the managing partner. However, on the date of receipt of the money, the power of attorney has been revoked and neither the property was purchased in the name of the defacto complainant nor the money was returned to the defacto complainant. Hence, on the basis of the complaint preferred by the defacto complainant, FIR has been registered. The learned counsel would fairly submit that the FIR against A3 and A4 has been quashed

and A2 was already enlarged on bail. However, since A1 is a Malaysian citizen, if he is enlarged on bail, he would abscond which would delay the disposal of the case. He would further submit that he had received only Rs.60 lakhs from A3 and A4 and the balance amount of Rs.40 lakhs is yet to be paid. Hence, the learned counsel prayed for dismissal.

4.The learned Government Advocate (Criminal Side) would submit that the case has been registered against four persons. The FIR against A3 and A4 was already quashed and A2 was already enlarged on bail. The petitioner herein is arrayed as A1 and the investigation is going on. Hence, he prayed for dismissal of the petition.

5.Considered the rival submissions made by both sides.

6.It is an admitted fact that in M/s.Visalam Promoters, A2 is the partner and A4 is the managing partner. A2 is the wife of the petitioner A1. A.2 was arrested and enlarged on bail. A3 and A4 were arrested

and released. It is also admitted that Rs.1 Crore has been received by M/s.Visalam Promoters, but they neither purchased the properties nor repaid the amount. Hence, a complaint has been lodged by the defacto complainant. In view of the complaint, A3 and A4 were arrested and they have filed Crl.O.P.No.27847 of 2015, in which, the FIR against A3 and A4 were quashed as no objection has been made by the defacto complainant since the matter is settled on the basis of the Memorandum of Understanding between A3 and A4 and the defacto complainant.

7.In paragraph 8 of the order, it is stated that A.3 and A.4 were ready to repay Rs.One Crore to the defacto complainant. But, admittedly, entire amount has not been paid and there is a balance sum of Rs.40,00,000/-. Eventhough, FIR filed against A3 and A4 is quashed, the petitioner A1 is nothing to do with M/s.Visalam Promoters as he is neither a partner nor a managing partner.

8.Considering the fact that A1 is not a partner of M/s.Visalam

Promoters and there is no prima facie evidence to show that he has received that amount and further, in paragraph 8 of the order, it is specifically mentioned that A3 and A4 are ready to repay the entire amount to the defacto complainant and on that basis, FIR has been quashed and after quashing of FIR against A3 and A4, the arrest of A1 is speculative in nature and as the investigation has already been over, this Court is of the view that it is a fit case to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Alandur, and on further condition that the petitioner shall report before the Court concerned daily at 10.30 a.m. until further orders.

06.09.2016

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