



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Eleventh day of January Two Thousand Seventeen

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD)Nos.33,279, 34 of 2017 and 23842 of 2016

1 SURESHKUMAR

2 PETCHIMUTHU

..Petitioners/Accused 5 & 8
in CRL OP(MD).33/2017

R.THENARUVI

..Petitioner/Accused No.3
in CRL OP(MD).279/2017

1 PRAKASH

2 MANIKANDAN

..Petitioners/Accused No.2 & 9
in CRL OP(MD).34/2017

1 ARUNKUMAR

2 C.MUTHUKUMAR

..Petitioners/Accused 6 & 7
in CRL OP(MD).23842/2016

- Vs. -

STATE REP.BY

THE INSPECTOR OF POLICE,

ECONOMIC OFFENCES WING, UNIT II,

VIRUDHUNAGAR.

(IN CR.NO.4/2016 IN ALL CRL.OP'S)

..Respondent/Complainant
in all the petitions

For Petitioners : M/S.R.GANDHI, Advocate

in Cr1.OP(MD)Nos.33,279 & 34/2017

For Petitioner : M/s.C.T.PERUMAL, Advocate

in Cr1.OP(MD)No.23842/2016

For Respondent : Mr.P.KANDASAMY, Government Advocate (Cr1.Side)

in all the petitions

PETITIONS FOR BAIL Under Sec. 439 Cr.P.C.

in Cr1.OP(MD)Nos.33,279

PETITION FOR ANTICIABAORY BAIL Under Sec. 438 Cr.P.C.

in Cr1.OP(MD)No.23842/2016 & 34/2017

ORDER : The Court Made the following order :-

The petitioners / A3, A5 and A8 in Cr1.O.P.(MD)Nos.33 & 279 of 2017, who were arrested on 17.12.2016 for the offence punishable under Sections 406, 420, 120(b) IPC and Section 5 of TNPID Act, in Crime No.4 of 2016 on the file of the respondent Police, seek bail.

2.The petitioners / A2, A6, A7 and A9 in Cr1.O.P.(MD)Nos.23842 of 2016 and 34 of 2017, who apprehend arrest at the hands of the

respondent Police for the offence punishable under Sections 406, 420, 120(b) IPC and Section 5 of TNPID Act, in Crime No.4 of 2016 on the file of the respondent Police, seek anticipatory bail.

3.The case of the prosecution is that the de facto complainant is the Manager of the petitioners' company namely, Green Shield Agro Ltd. The petitioners along with other accused, who are the Directors of the said company, have given false promise of giving higher interest for the depositors. Based on which, the de facto complainant, who is the Manager of the said Company, has deposited Rs.42,100/- in his name and also his family members and on maturity, the petitioners failed to refund the said amount with interest.

4.The learned counsel for the petitioners submitted that the petitioners have not given any such promise as alleged by the de facto complainant. Al is the company, which is a registered under Companies Act, 1956 in the year 2010, has not received deposit amount from the depositors for returning the same with higher rate of interest. However, the said company has involved in promoting land and thereby, introduced various schemes. As per the said schemes, the customers used to pay installments on every month and on completion of the plan period, the company will execute a registered deed to an extent of land as per the agreement. He further submitted that the petitioners' company owns 70 acres of land at Kalingapatti Village, Thoothukudi District.

5.The learned counsel for the petitioners further submitted that the de facto complainant has involved in malpractice and misappropriated the funds of the company and in order to escape from the same, the de facto complainant preferred the present complaint. He submitted that the company has issued public notice on 10.07.2016, stating that the company is ready to execute sale deed as per the plan and hence, Section 5 of TNPID Act is not applicable in this case since the company has not collected deposit amount from the depositors by giving promise to pay higher interest.

6.The learned Government Advocate (Crl.side) appearing for the respondent Police submitted that the de facto complainant's mother namely, Bakiyalakshmi joined in PLAN-II 5 years Installment Land Plan on 22.11.2011 and paid 41 monthly installments at Rs.100/- per month and thereby invested Rs.4,100/- and the said plan period came to an end on 22.11.2016. The de facto complainant joined in PLAN-II 5 Years Installment Land Plan on 13.06.2013 and paid 13 monthly installments at Rs.1000/- per month and thereby, invested Rs.13,000/- and the said plan period came to an end on 13.06.2018 and thereafter, he did not pay the remaining installments. Similarly, in PLAN-I Cash Down Land Plan the de facto complainant invested Rs.5,000/- and the said plan will come to an end on 01.05.2018 and in PLAN-I Cash Down Land Plan his brother invested Rs.5,000/- and the said plan will come to an end on 01.06.2018 and in PLAN-I 5 Years Installment Land Plan the de facto complainant invested Rs.15,000/- and it will come to an end on 12.07.2017.

He further submitted that the de facto complainant and his family members invested a sum of Rs.42,100/- in the petitioners' company. He further submitted that the petitioners' company cheated nearly 16,000/-



depositors and thereby cheated a sum of Rs.25 crores and the petitioners are having accumulated movable and immovable properties from and out of the amount collected from the depositors and therefore, custodial interrogation of the petitioners is necessary. He also submitted that the investigation is at preliminary state.

7. Heard the learned counsel for the petitioners, learned Government Advocate (Crl.side) and perused the documents produced before this Court.

8. The First Information Report reveals the fact that the petitioners have collected amount through monthly installments by introducing various schemes to sell certain extent of land to the depositors. The learned Government Advocate (Crl.side) contended that totally there are 16,000 complainants and that the petitioners cheated Rs.25 crores in this case. This Court asked the learned Government Advocate (Crl.side) to produce the list of depositors to that effect, since the counsel for the petitioners states that there is no complaint except the present complaint. However, the learned Government Advocate (Crl.side) was not able to produce documentary evidence to that effect. It is also seen that except the de facto complainant, no complaint is registered against the petitioners' company.

9. The learned counsel for the petitioners submitted that the petitioners are ready to deposit a sum of Rs.46,113/- in Crime No.4 of 2016 without prejudice to their contention in this case.

10. Considering the facts and circumstances of the case and also considering the nature of allegations leveled against the petitioners / A3, A5 and A8 in Crl.O.P.(MD) Nos.33 & 279 of 2017, this Court is inclined to grant bail to the petitioners / A3, A5 and A8. Accordingly, **the petitioners / A3, A5 and A8 are ordered to be released on bail** subject to the following conditions:

(i) the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties, each for a like sum to the satisfaction of the Special Court for TNPID Act Cases, Madurai.

(ii) the petitioners are directed to appear before the respondent police daily at 10.30 a.m. until further orders;

(iii) the petitioners shall not tamper with the evidence or witness either during investigation or trial;

(iv) the petitioners shall not abscond either during investigation or trial;

(v) on breach of any of the aforesaid conditions, the Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs.**



11. The petitioners / A2, A6, A7 and A9 in CrI.O.P.(MD)Nos.23842 of 2016 and 34 of 2017 are ordered to be released on bail in the event of arrest or on their appearance, within a period of 15 days from the date on which the order copy is made ready, before the learned Special Court for TNPID Act Cases, Madurai, on condition that the petitioners / A2, A6, A7 and A9 shall execute 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 respondent Police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioners / A2, A6, A7 and A9 shall report before the respondent Police daily at 10.30 a.m. until further orders.

[b] the petitioners / A2, A6, A7 and A9 shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners / A2, A6, A7 and A9 shall not abscond either during investigation or trial.

[d] on breach of any of the aforesaid conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the petitioners / A2, A6, A7 and A9 in accordance with law as if the conditions have been imposed and the petitioners / A2, A6, A7 and A9 released on bail by the learned Magistrate / Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala (2005 AIR SCW 5560)**.

12. The petitioners shall deposit a sum of Rs.46,113/- in Crime No.4 of 2016 before the Special Court for TNPID Act Cases, Madurai.

sd/-

11/01/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SPECIAL JUDGE FOR TNPID ACT CASES, MADURAI.
- 2 THE ADDL.PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 3 THE INSPECTOR OF POLICE, ECONOMIC OFFENCES WING, UNIT II, VIRUDHUNAGAR.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

+3. CC to M/S.R.GANDHI Advocate SR.Nos.2325,2326 & 2324
+1cc to M/s.C.T.Perumal, Advocate in SR.2267

ORDER IN

CRL OP (MD) Nos.33,279,34 of 2017
and CrI.OP (MD) No.23842 of 2016
Date :11/01/2017