

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixteenth day of August Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.19183 of 2018

T.SRIRAMAN

[PETITIONER / ACCUSED]

Vs

STATE REP. BY
INSPECTOR OF POLICE,
CCB, TEAM-II,
EGMORE, CHENNAI.
CR.NO.90 OF 2017

[RESPONDENT]

For Petitioner : MR.A.RAGHUNATHAN SENIOR COUNSEL FOR
M/S.R.SATHISHKUMAR Advocate

For Respondent : MR. C.IYYAPPARAJ ADDL.Public Prosecutor

For Intervener : MR.S.KARTHIKEYAN SENIOR COUNSEL FOR
M/S.S.V.UDAYAKUMAR Advocate

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who surrendered on 17.07.2018 in connection with the Crime No.90 of 2017, Central Crime Branch, Team - II, Chennai, for the offence under Sections 420 and 409 of I.P.C. on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that one D.Kabilan, Executive Director of V.V.D. and Sons (P) Limited lodged a complaint against the petitioner who is the Proprietor of Sole Tech Equipments, T.Nagar, Chennai. According to the defacto complainant, the petitioner had introduced himself as the distributor of Canadian Solar Panel International Limited for the State of Tamil Nadu and had promised to import and install solar panel for the defacto complainant's Company and believing his representation, the defacto complainant inclined to launch a solar power plant Tuticorin in order to sell the power generated from the panel to TANGEDCO. Subsequently, the defacto complainant entered into High Sea Agreement with the petitioner to import 3672 numbers of Canadian Solar Module

Equipments under the name of the defacto complainant's Company for which the defacto complainant had paid a sum of Rs.4,37,75,000/- (both for panel value and import charges). After Customs clearance, the goods were entrusted with the petitioner and the petitioner without the knowledge and consent of the defacto complainant sold out the goods to the third party and thereby cheated the defacto complainant to the tune of Rs.4,31,00,000/-. Based on the complaint, the case came to be registered.

3. Thereafter, the petitioner moved CrI.M.P.No.7155 of 2017 before the Sessions Court at Chennai seeking bail. The learned Sessions Judge vide order dated 28.04.2017 granted interim bail to the petitioner till 10.05.2017 and further directed the petitioner to furnish Bank Guarantee to the tune of Rs.4,31,00,000/- on or before 10.05.2017. Thereafter, the petitioner filed CrI.O.P.No.9194 of 2017 before this Court for modification of the condition imposed in the order dated 28.04.2017 in CrI.M.P.No.7155 of 2017. This Court vide order dated 10.05.2017 extended the condition and directed the petitioner to furnish the Bank Guarantee on or before 31.05.2017.

4. The petitioner in compliance of the order of this Court furnished Bank Guarantee in favour of the beneficiary Bank i.e., IDBI Bank. Thereafter, the defacto complainant approached the beneficiary Bank. On verification, it revealed that the Bank Guarantee furnished by the petitioner is a fake one and the defacto complainant was not able to realize the amount. Hence, the defacto complainant moved cancellation of bail petition in CrI.O.P.No.14166 of 2017 before this Court and this Court vide order dated 20.07.2017 closed the petition by holding that it is always open to the defacto complainant to move the Sessions Court for cancellation of bail. Thereafter, the petitioner surrendered before the Court and has filed this petition for bail.

5. The learned Senior Counsel appearing for the petitioner would submit that as per the direction of the learned Sessions Judge and the subsequent direction of this Court, the petitioner furnished Bank Guarantee, however, the Bank Guarantee subsequently expired. Since the petitioner is in prison, he is not able to revalidate the Bank Guarantee. Hence, the learned Counsel requests that this Court may modify the condition suitably in favour of the petitioner.

6. The learned Senior Counsel appearing for the intervenor would submit that the learned Sessions Judge vide order dated 28.04.2017 granted interim bail to the petitioner till 10.05.2017 and further directed the petitioner to furnish Bank Guarantee to the tune of Rs.4,31,00,000/- on or before 10.05.2017. Thereafter, the petitioner filed CrI.O.P.No.9194 of 2017 before this Court for modification of the condition imposed in the order dated 28.04.2017 in CrI.M.P.No.7155 of 2017. This Court vide order dated 10.05.2017 directed the petitioner to furnish the Bank Guarantee on or before

31.05.2017. Even thereafter, the petitioner has not furnished the Bank Guarantee which is evident from the letter dated 13.11.2017 of the beneficiary Bank.

7.The learned Additional Public Prosecutor would submit that there was a direction by the learned Sessions Judge as well as by this Court to furnish a Bank Guarantee to the tune of Rs.4,31,00,000/-. However, the petitioner has not furnished the Bank Guarantee. He would further submit that investigation is still pending.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.Perusal of records disclose that initially, the learned Sessions Judge vide order dated 28.04.2017 has granted interim bail to the petitioner till 10.05.2017 and has further directed the petitioner to furnish Bank Guarantee to the tune of Rs.4,31,00,000/- on or before 10.05.2017. Thereafter, the petitioner has filed Crl.O.P.No.9194 of 2017 before this Court for modification of the condition imposed in the order dated 28.04.2017 in Crl.M.P.No.7155 of 2017 and this Court also exercised its power and vide order dated 10.05.2017 granted further time to the petitioner to furnish the Bank Guarantee till 31.05.2017.

10.Perusal of the letter dated 13.11.2017 from the IDBI Bank Limited to the Sub Inspector of Police, Central Crime Branch, EDF-I, Team II, Vepery, Chennai, reveals that IDBI has not received any Bank Guarantee (performance bond) in favour of VVD and Sons Private Limited issued by M/s.Euro Exim Bank Limited, UK (on behalf of Soltech Equipments, Chennai) either in physical form or through SWIFT.

11.The letter dated 13.11.2017 makes it clear that the petitioner has not furnished any Bank Guarantee to the beneficiary Bank or the Bank Guarantee furnished by the petitioner is not a genuine one. Even today, the petitioner is not willing to furnish any Bank Guarantee as per the undertaking given by him before the lower Court as well as before this Court.

12.In view of the above, this criminal original petition is dismissed.

-sd/-

16/08/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

3 THE INSPECTOR OF POLICE,
CCB, TEAM-II,
EGMORE, CHENNAI

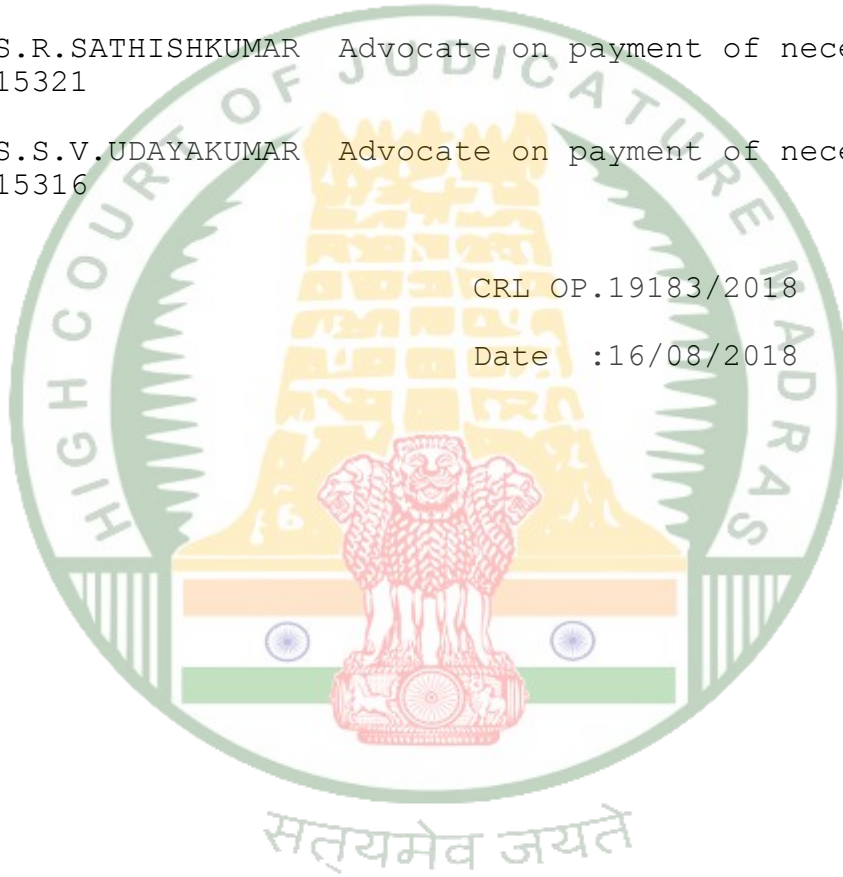
+1CC to M/S.R.SATHISHKUMAR Advocate on payment of necessary
charges SR.NO. 15321

+1CC to M/S.S.V.UDAYAKUMAR Advocate on payment of necessary
charges SR.NO. 15316

CRL OP.19183/2018

Date :16/08/2018

cm 20/08/2018



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