

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.24926 of 2018

1.Saravanan
2.Santhosh

...Petitioners/Accused

Vs

The State Rep. by
The Sub Inspector of Police,
CCB-I, Police Station,
Chennai.

...Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to set aside the regular bail order by the learned
Metropolitan Magistrate for CCB & CBCID cases at Egmore, Chennai
in Crl.M.P.No.3826/2018 dated 30.07.2018 in Cr.No.113/2018 with
liberty to the petitioners to move fresh statutory bail
application under section 167(2) of Cr.P.C before the same Court.

For Petitioners : Mr.M.Anandaraj

For Respondent : Ms.M.Prabhavathi

Additional Public Prosecutor

For

De facto

complainant : Mr.K.M.Ramesh

Intervenor

O R D E R

On the complaint lodged by one Srinivasan, the respondent
Police have registered a case in Crime No.113 of 2018 on
23.03.2018 under Sections 420 and 109 of IPC against Gnanaraj G
and 7 others, including Saravanan A2, Santhosh A3 and Sathish
Kumar A7.

2.It is the case of the de facto complainant that the
accused were involved in online trading in rice and other pulses
in which they have totally received to the tune of Rs.1.5 crores
and thereafter had cheated the de facto complainant. Hence,
the complaint and the First Information Report. Saravanan A2,
Santhosh A3 and Sathish Kumar A7 were arrested and remanded to
judicial custody on 11.07.2018. All the three arrested accused
were directed to be released on bail in Crl.M.P.No.3826 of 2018

by the Magistrate on certain conditions, one of which is:

"3.The Petitioner shall each produce original title deeds of immovable property which stands in the name of the petitioners or their wives or relatives or friends to the tune of Rs.25,00,000/- to the satisfaction of this Court."

3.This condition was subsequently modified by the Sessions Court by order dated 30.08.2018 in CrI.M.P.No.14549 of 2018 in CrI.M.P.No.3826 of 2018 as follows:-

"5.The Petitioner was already granted bail by the lower Court. The amount involved in this case is Rs.50,65,280/-. Therefore the lower Court is imposed said condition. However considering the default expressed by this petitioners this Court is inclined to modify the condition by reducing the amount from 25,00,000/- to 10,00,000/-."

4.Sathish kumar (A7) appears to have complied with the modified condition and has availed the benefits of bail, whereas Saravanan and Santhosh have not been able to comply with the said condition and therefore they are still in jail.

5.Mr.M.Anandaraj, learned counsel for the accused submitted that now Saravanan and Santhosh are in judicial custody for the last 105 days and that the police have not filed the charge sheet. Hence, they would be entitled to statutory bail under Section 167(2) Cr.P.C.

6.Per contra, Mr.K.M.Ramesh, learned counsel for the de facto complainant submitted that the accused had cheated the de facto complainant to the tune of Rs.1.5 crores and therefore, no leniency should be shown to them.

7.Be that as it may. The failure of the accused to avail the benefits of the regular bail, cannot be a reason to deny his indefeasible right to be released on bail under Section 167(2) Cr.P.C, of course, on conditions including deposit of reasonable amount.

Therefore, this petition is closed with liberty to the petitioners/accused to approach the Trial Court under Section 167(2) Cr.P.C.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The sub Inspector of Police,
CCB-I, Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

3.The Metropolitan Magistrate,
CCB & CBCID cases at Egmore,
Chennai.

4.The Superintendent,
Central prison, puzhal, Chennai.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.73341

+1cc to Mr.M.Anandaraj, Advocate, S.R.No.73430

CRL.O.P.No.24926 of 2018

MR (CO)
GSP (29/10/2018)



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