

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED 26.10.2018  
CORAM  
THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.24899 of 2018

T.Sriraman ... Petitioner

Vs

State Rep. by Inspector of Police,  
CCB, Team-II Egmore,  
Chennai.

Crime No.90/2017. ... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order dated 15.10.2018 passed by the learned CCB and CBCID Metropolitan Magistrate, Egmore, Chennai-8 in Crl.M.P.No.5812 of 2018 in Cr.No.90 of 2017, Central Crime Branch, Team-II, Chennai on his file and direct that the petitioner be released on bail on such terms and conditions as may be deemed just and necessary.

For Petitioner : Mr.A.Raghunathan, Sr. Counsel  
for Mr.R.Sathishkumar

For Respondent : Ms.M.Prabavathi, APP

For De facto complainant : Mr.S.V.Udayakumar

## O R D E R

This Criminal Original Petition has been filed to set aside the order dated 15.10.2018 passed by the learned CCB and CBCID Metropolitan Magistrate, Egmore, Chennai-8 in Crl.M.P.No.5812 of 2018 in Cr.No.90 of 2017 on the file of the respondent Police.

2.On the complaint lodged by Kabilan, the respondent Police have registered a case in Crime No.90 of 2017 on 31.03.2017 under Sections 409 and 420 IPC against Sri Raman. It is the case of the de facto complainant that a sum of Rs.4,37,75,000/- (Rupees Four Crores Thirty Seven lakhs and Seventy Five Thousand only) was paid to the accused for importing solar panels from China and after importing the materials, it was stored in the godown of the accused. When the de facto complainant approached the accused for taking delivery of the solar panels, it came to light that the accused had illegally sold the panels in the market. Hence, the complaint and the FIR.

3.After registration of the FIR, the accused was arrested by the Police on 19.04.2017 and was remanded to custody. The accused was granted interim bail in Crl.M.P.No.7155 of 2017 on 28.04.2017 by the Principal Sessions Court, Chennai, on certain conditions, one of which is that, the accused is directed to furnish bank Guarantee to the tune of Rs.4,31,00,000/- on or before 10.05.2017. The accused produced certain Bank Guarantee and was released on interim bail, on he

executing the bond as laid down in the order of the Sessions Court. After his release on interim bail, the accused filed Crl.O.P.No.9194 of 2017 for modification of the said condition, which was disallowed by this Court, vide order dated 10.05.2017. However, this Court extended the time frame for furnishing the Bank Guarantee. Though, the de facto complainant brought these facts to the notice of the Sessions Court which had granted interim bail, the Court did not cancel the bail on the ground that it did not have jurisdiction. Therefore, the de facto complainant filed Crl.O.P.No.24060 of 2017 under Section 439 Cr.P.C for cancellation of bail. On notice, the accused entered appearance and submitted that the Bank Guarantee furnished by him from EURO EXIM Bank, United Kingdom, is a genuine Bank Guarantee. However, this Court directed the Police to conduct enquiry and learnt that the said Bank Guarantee could never have been enforced by the Court. Therefore, this Court was about to cancel the bail. However, the accused submitted that he would surrender before the Magistrate and submit himself to custody, since the original bail was only interim bail. Hence, on 16.07.2018, this Court passed following order :

□The learned Special Metropolitan magistrate for exclusive trial of CCB Cases, Chennai is directed to accept the surrender of Sriraman S/o Thirumalacharry, accused in CCB Cr.No.90 of 2017 in accordance with law since the pendency of the proceedings before this Court will not be a bar. Post on 23.07.2018.□

After the accused surrendered, Crl.O.P.No.24060 of 2017 was dismissed as infructuous by this Court on 23.07.2018 by passing the following order:

□2. Since the accused has surrendered before the Special Court for CCB Cases, Chennai, on 17.07.2018, this petition has become infructuous. Accordingly, this petition is dismissed as infructuous.□

After surrender, the accused filed Crl.O.P.No.19183 of 2018 for regular bail under Section 439 Cr.P.C. This Court dismissed the bail application on 16.08.2018. Since the petitioner remanded in custody for over 90 days without the Charge Sheet being filed, he filed Crl.M.P.No.5812 of 2018 for statutory bail before the learned Magistrate, which has been dismissed on 15.10.2018, challenging which, the accused is before this Court.

4.Heard Mr.Raghunathan, learned Senior Counsel appearing for the petitioner/accused and the learned Additional Public Prosecutor appearing for the respondent.

5.Mr.Raghunathan, learned Senior Counsel submitted that though, the regular bail application has been dismissed by this Court, yet, the accused will be entitled to statutory bail under Section 167(2) Cr.P.C., for the failure of Prosecution to file the Charge Sheet within time frame fixed under Section 167 Cr.P.C. One can have no two opinions on this legal issue. Default bail is an indefeasible right that accrues to the accused, on the failure of the prosecution to file the Final Report within 60/90 days as prescribed in Section 167 Cr.P.C. In this case, the accused is implicated for an offence under Section 409 IPC, for which, the maximum punishment is imprisonment for life and therefore, the statutory bail period is 90 days. The accused was first remanded on 19.04.2017 and was in custody till 28.04.2017 and thereafter, he was released on interim bail on the orders of the Sessions Court. Thereafter, the accused surrendered to custody on 17.07.2018 and now we are on 26.10.2018, thus totally, the accused is in custody for over 100 days. Admittedly, the Charge Sheet has not been filed so far. Therefore, the accused will be entitled to statutory bail under Section 167(2) Cr.P.C. and the reasoning given by the Magistrate for denying him, the benefit of statutory bail is legally unsustainable. Of course, it is always open to the Magistrate to impose appropriate conditions for the grant of statutory bail.

6.In the result, this petition is allowed and the order dated 15.10.2018 is set aside. The accused is directed to be released on bail on furnishing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, one surety must be a blood relative, the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their

Aadhaar card or Bank pass Book to ensure their identity. The accused should deposit Rs.25,00,000/- (Rupees Twenty Five Lakhs only) by way of Demand Draft to the credit of Crime No.90 of 2017 before the learned CCB and CBCID Metropolitan Magistrate, Egmore, Chennai-8 and on such deposit, the learned Magistrate shall redeposit the amount in any nationalized bank so that the amount accrues interest. The Passport of the accused should be deposited before the learned Magistrate.

26.10.2018

Note : Issue Today

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To

1.CCB and CBCID Metropolitan Magistrate,  
Egmore, Chennai-8.

2.The Inspector of Police,  
CCB, Team-II, Egmore,  
Chennai.

3.The Public Prosecutor,  
High Court, Madras.

P.N.PRAKASH, J.

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