



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.01.2018
CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN
Crl.O.P. (MD) No.15452 of 2017

WEB COPY

G.Savugaraj ... Petitioner/Defacto Complainant

Vs.

1.Banwarilal Kushwaha ...1st Respondent/Petitioner/A2

2.The Inspector of Police,
(Present Investigating Officer),
Economic Offences Wing II,
Virudhunagar. ...2nd Respondent.

3.The Inspector of Police,
Economic Offences Wing II,
Madurai.
In Crime No.2 of 2016 ...3rd Respondent/Complainant

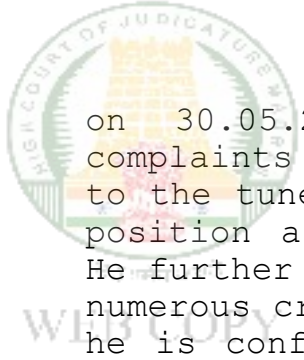
PRAYER: Criminal Original Petition is filed under Section 439 (2) r/w 482 of the Code of Criminal Procedure, to cancel the bail granted to the 1st respondent by the Special Court under the Tamilnadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, Madurai in Cr.M.P.No.1099 of 2017, dated 27.03.2017.

For Petitioner : Mr.A.Balaji
For Respondent 1 : No Appearance
For Respondents 2 & 3 : Mr.A.Rabinson
Government Advocate (Crl. Side)

O R D E R

The petitioner/defacto complainant filed this petition seeking the relief to cancel the bail granted to the 1st respondent by the Special Court under the Tamilnadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, Madurai in Cr.M.P.No.1099 of 2017, dated 27.03.2017.

2.The petitioner states that the petitioner has deposited a sum of Rs.1 lakh in to the 1st respondent's company, but the 1st respondent cheated the petitioner and others and failed to repay the deposit amounts. Hence FIR has been registered against the petitioner as per the court order dated 11.02.2016 made in Crl.O.P. (MD).No.22467 of 2015 which is filed by the one Sivasakthi. Thereafter, the investigation has been transferred to the hands of 2nd respondent by the Superintendent of Police, E.O.W.II, Chennai. This petitioner also lodged a complaint against this 1st respondent



on 30.05.2017. The investigating agency has received 1371 complaints from the depositors and find out that cheated amount is to the tune of Rs.3,53,21,486/-. The 1st respondent was holding his position as MLA of Dholpur constituency, Rajasthan State Assembly. He further submits that the 1st respondent is a habitual offender and numerous criminal cases are pending against him across India and now he is confined in Central Prison, Dholpur, as convicted prisoner. He further submitted that the 1st respondent was enlarged on bail by the order passed in Cr.M.P.No.1099/2017 in Cr.No.2/2016, dated 27.03.2017 by the TANPID Court, Madurai, and it would adversely affect the rights of the depositors and may lead to Nil progress in the settlement process. He further submits that the 1st respondent's wife got the MLA post which was lost by her husband and the 1st respondent has the power of politics and bureaucracy by which he would evade from the clutches of law. Hence, he prays for cancellation of bail.

3.The learned counsel appearing for the 1st respondent submitted that the 1st respondent has already served as a convicted prisoner in Central Prison, Dholpur, Rajasthan State.

4.The learned Government Advocate (Crl. Side) appearing for State also submits that the investigation is completed and the charge sheet has been filed. He further submits that the accused was already convicted for the offences punishable under Sections 302 and 120(b) of IPC in Crime No.316 of 2012 on the file of the Dholpur, Sadar Police Station, State of Rajasthan and is now confined in Central Prison, Dholpur as convicted prisoner and two more cases are also pending against the 1st respondent.

5.The submissions made by either side are considered. Earlier, as per the order passed in Cr.M.P.No.1099/17 the learned Special Judge under TANPID Act Cases, Madurai, granted bail to the petitioner. Now, this application is filed by the defacto complainant for cancelling the same by showing that the petitioner is a habitual offender and since, he is an Ex-MLA, he is possessed with muscle and money power. Even though the submissions made by the counsel appearing for the petitioner has a valid ground, according to prosecution, as of now, in the case registered against the petitioner, charge sheet has been filed after completing the investigation. So, the custodial investigation of the petitioner may not be necessary in this case for proceeding with the trial. Accordingly, the cancellation of bail does not require for proceeding with the case. Accordingly, this Court is not inclined to allow this petition.

6.In the result, this petition is dismissed.

Sd/-

Assistant Registrar(P&A)

/True Copy/



To

1.The Special Judge/ Special Court under the TANPID Act,
Madurai.

2.The Inspector of Police,
Economic Offences Wing II,
Virudhunagar.

3.The Inspector of Police,
Economic Offences Wing II,
Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P. (MD) No.15452 of 2017
29.01.2018

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