

Crl.O.P.No.3909 of 2020

M.DHANDAPANI,J.

The petitioner who was arrested and remanded to judicial custody on 16.12.2019 for the offences punishable under **Sections 409, 420, 465, 468, 120B r/w Section 34 of IPC in Crime No.289 of 2019** on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant's mother appointed the petitioner as Power Agent and they entered into a MOU for consideration of Rs.85 Lakhs for sale consideration. At that time , the petitioner gave Rs.20 Lakhs. Later he gave two cheques for the remaining amount. But the same was dishonored. Thereafter, he sold the property to other accused persons to the tune of Rs.1.05 crores and the petitioner did not return the balance amount. Hence the complaint was filed.

3. The learned counsel for the petitioner submitted that the petitioner is in judicial custody from 16.12.2019. He would further submit that the petitioner has paid the entire amount through the agreement holder, who has paid the money to the defacto complainant. Further the learned counsel fairly conceded that without obtaining acknowledgedmnt that amount was paid. It is further submitted by the learned counsel, that the petitioner without prejudice to his rights, is ready and willing to deposit a sum of Rs.30,00,000/- to the credit of crime number. Thereafter, the said amount was disbursed to defacto cmplaint after obtaining affidavit from the defacto complainant. Hence, he prays for grant of bail to the petitioner.

4.The learned counsel appearing for the defacto complainant submitted that the defacto complainant prepare to file a suit for declaration. He further submitted that without prejudice to his rights, the defacto complainant may be permitted to withdraw the amount and ready to file undertaken affidavit.

5. The learned Additional Public Prosecutor appearing for the State would submit that already A2 has deposited a title Deed worth about Rs.10,00,000/- and that amount may be disbursed to the defacto complainant after obtaining required affidavit. He added that the investigation is pending.

6. Considering the nature of allegation and given the duration of judicial custody of the petitioner from 16.12.2019, this Court deems it appropriate to grant bail to the petitioner subject to the following conditions;

[a] the petitioner shall deposit a sum of Rs.30,00,000/- (Rupees Thirty Lakhs Only) within a period of six weeks from the date of receipt of a copy of this order to the credit of Cr.NO.289 of 2019 on the file of the learned Metropolitan Magistrate, CCB, CB-CID Court, Egmore, Chennai. On deposit of such amount, the learned Magistrate is directed to disburse the said amount of Rs. 30,00,000/- to the defacto complainant after obtaining the required undertaken affidavit.

[b] the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Fifty Thousand only)

with two sureties, one of whom shall be blood related to the petitioner, each for a like sum to the satisfaction of the learned Metropolitan Magistrate, CCB, CB-CID Court, Egmore, Chennai;

[c] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[d] the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

21.02.2020

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The matter is listed today under the caption 'for being mentioned' at the instance of the learned counsel appearing for the defacto complainant.

2.The learned counsel appearing for the defacto complainant would submit that vide order dated 21.02.2020 made in Crl.O.P.No.3909 of 2020, this Court directed the learned Magistrate to disburse the amount of Rs.30 Lakhs to the defacto complainant after obtaining the required undertaking affidavit. He would further submit that the defacto complainant is not inclined to withdraw the amount and hence, let the amount be in the credit of the crime number itself. Accordingly, he prayed for appropriate orders.

3.In view of the above, paragraph no.4 and clause [a] of paragraph no.6 of the order dated 21.02.2020 made in Crl.O.P.No.3909 of 2020 are to be read as follows:

Paragraph no.4:

"4.The learned counsel

appearing for the defacto complainant submitted that the defacto complainant prepare to file a suit for declaration. The learned counsel on instructions, further submitted that the defacto complainant is not inclined to withdraw any amount and hence, let the amount that is to be deposited by the petitioner be in the credit of the crime number itself."

Clause [a] in paragraph no.6:

"[a] the petitioner shall deposit a sum of Rs.30,00,000/- (Rupees Thirty Lakhs Only) within a period of six weeks from the date of receipt of a copy of this order to the credit of Cr.NO.289 of 2019 on the file of the learned Metropolitan Magistrate, CCB, CB-CID Court, Egmore, Chennai."

4.Registry is directed to carry out the necessary corrections and re-issue copy of the order to the respective learned counsel appearing for the parties.

27.02.2020

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