IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

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THE HONOURABLE MR. JUSTICE **M.NIRMAL KUMAR**

Crl.O.P.No.7776 of 2020

K.Selvakumar,(M/Age 40 years)
S/o.Krishnamoorthy
No.184, AKN Castle
T3, III Floor, Thiruvallur Salai
Mogappair East,
Chennai-600 037. .. Petitioner

Vs.

The Inspector of Police,
Central Crime Branch
Team-I, EDF-II,
(Crime No.82 of 2020) ..Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.82 of 2020 on the file of the respondent.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

The petitioner who was arrested and remanded to judicial custody on 13.02.2020 for the offences under Sections 408, 420, 467, 468, & 471 of IPC in Crime No.95 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is working as Finance & Accounting Manager in Fourth Dimension Media Solutions Pvt. Ltd., Chennai which was one of the concern of the defacto complainant company, namely, M/s.New Generation Media Corporation Pvt. Ltd., The defacto complainant employed the petitioner in M/s.Fourth Dimension Media Solutions Pvt. Ltd., for the purpose of advertisement sale of the media business. The scope of the work of M/s.Fourth Dimension would be to solicit business on behalf of M/s.New Generation Media Corporation Pvt. Ltd., and collect all necessary outstanding on their behalf. All release instructions and collections would be in the direct name of M/s. New Generation Media Corporation Pvt. Ltd., The petitioner/accused has collected dues from 54 customers of the defacto complainant and he has to transfer the said dues in favour of the de-facto complainant company. Instead, the petitioner/accused, with an criminal intention had created bank accounts in the name of M/s.New Generation Media Corporation Pvt. Ltd., and Fourth Dimension Media Solutions Pvt. Ltd., with IDBI Bank and thereby misappropriated to the tune of Rs.1,80,81,993/-.

3. The learned Counsel for appearing for the petitioner would

submit that the petitioner is employed in Fourth Dimension Media Solutions Pvt. Ltd., and the Principal of the petitioner had directed the petitioner to open an account in the name of M/s.New Generation Media Corporation Ltd., for the purpose of depositing the collected dues from the customers and thereafter, the amount was transferred to their account through the current account of Lakshmi Creations and from the savings Bank account of the petitioner. To prove that the amounts were transferred to the petitioner, the petitioner could produce documents. Despite the same respondent failed to consider and due to pressure exerted by the de-facto complainant, the petitioner was arrested and remanded to judicial custody. The learned counsel further submitted that the entire case devolve on documentary evidence and all the documents are available with the de-facto complainant and the availability of the documents were made known by the petitioner to the respondent. Despite the same, the respondent has not considered them. The petitioner on his release shall produce all the documents in this regard.

4. The learned counsel for the petitioner further submitted the the petitioner's daughter is a Nephritic patient and already under gone for biopsy and again, she has to take biopsy and the petitioner's wife is

also suffering from Neurocardiac problem and hence for the medical treatment of the daughter and wife, the presence of the petitioner is necessary and he has to take care of them. He further submitted that the petitioner is in confinement from 13.02.2020, already, the petitioner was removed from his service and all the evidences are bound by documents and further custody may not be necessary in this case and though the petitioner is in judicial custody for more than 95 days, charge sheet has not been filed till date. Hence, he prays to grant bail to the petitioner.

5. The learned Additional Public Prosecutor submitted that initially, the case was registered by Guindy Police Station on 13.02.2020 in Crime No.95 of 2020 and subsequently, it was transferred to the respondent police and renumbered as Crime No.82 of 2020. He further submitted that during investigation, it revealed that the petitioner has misappropriated Rs.1,80,81,993/- and with regard to the same, further investigation is required. The petitioner without any authority had opened an account in the name of M/s. New Generation Media Corporation Private Limited and deposited the amounts collected from the various customers in the name of New Generation Media Corporation and only part amount was shown as receipts the balance amount was misappropriated by the petitioner by creating false and

fabricated documents and by maintaining parallel. Hence he vehemently opposed for grant of bail to the petitioner.

6. It is seen from the complaint that the petitioner has collected amounts from the various customers of the de-facto complainant and transferred to the account of the M/s.New Generation Media Corporation Private Limited, which was created by the petitioner in the name of the said company and thereafter, he failed to transfer the same to the account of the de-facto complainant company. All the transactions are documented.

7. Taking into consideration the facts and circumstances of the case and taking into account the period of incarceration under gone by the petitioner and also considering the fact that the petitioner's daughter and wife are suffering from severe ailment, this Court is inclined to grant bail to the petitioners subject to the following conditions.

a) the petitioners shall execute his own bond for a sum of Rs. 10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison.

b) thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed.

[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 on every Monday, Wednesday and Friday at 10.30 a.m for a period of three weeks and thereafter, as and when required for interrogation.

[e] the petitioner shall appear before the trial Court during every hearing date without fail.

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

[g] the petitioners shall not abscond either during investigation or trial.

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

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

26.05.2020

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Internet/Yes/No

To

1. The Special Judge for CCB & CB CID Cases at Egnore, Chennai.

2.The Inspector of Police,
Central Crime Branch
Team-I, EDF-II.

3. The Public Prosecutor
High Court of Madras.

4. The Superintendent,
Central Prison, Puzhal.

M.NIRMAL KUMAR J.

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