

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 18530 of 2020

Vijaya Raghavan

... Petitioner/Accused -1

Vs.

The State represented by,
The Inspector of Police,
K-6, T.P.Chatram Police Station,
Chennai.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 578 of 2020, on the file of the respondent police.

For Petitioner : Mr.E.Soundararajan

For Respondent : Mr.T.Shunmugarejeswaran

Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 23.10.2020 for the offences punishable under Sections **294(b), 381, 408 r/w 34 of IPC**, in Crime No. 578 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner/A1 and other accused/A2 were working as collection agents in the defacto complainant's Company viz., GK Health Care, Chennai and they have collected a sum of Rs.2,16,000/- from the customers and have not remitted the amount to the defacto complainant's Company and thereby, they have misappropriated and cheated the defacto complainant. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is only a collection agent. Thereafter, admittedly the petitioner had collected the amounts and handed over the same to the 2nd accused, who is also a collection agent in the defacto complainant's company. He contend that the petitioner has been falsely implicated in this case since there was a dispute between the petitioner and the defacto

complainant. He would further contend that the petitioner was arrested on 23.10.2020 and he has been suffering incarceration nearly around 31 days. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner and the other accused were entrusted with the work of collecting money from the defacto complainant's Company towards the sale of their products and for the past four months, the accused persons had collected a sum of Rs.2,16,000/- and misappropriated the amount and cheated the defacto complainant by not remitting the amount to the defacto complainant's company. He would also submit that there is no previous case pending against the petitioner and that the misappropriated amount is yet to be recovered. Hence, he opposed to grant bail to the petitioner.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. Taking into consideration of the facts and circumstances of the case and submissions made by the learned counsel for the petitioner that the petitioner has already handed over the alleged amount to the other accused and there is no previous case pending against the petitioner and also considering the period of incarceration by the petitioner from 23.10.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned V Metropolitan Magistrate, Egmore and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Monday at 10.30 a.m., until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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 abscond, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
24/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE V METROPOLITAN MAGISTRATE, EGMORE

2 THE CHIEF METROPOLITAN MAGISTRATE
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT, CENTRAL PRISON, PUZHAI

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
K-6, T.P.CHATRAM POLICE STATION, CHENNAI.

+1 CC to M/S.E.SOUNDARARAJAN Advocate on payment of necessary charges SR.NO.7787

CRL OP.18530/2020

Date :24/11/2020

GKS:27/11/2020