

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.19650 of 2020

M.Buhari

... Petitioner

Vs.

The State represented by
Inspector of Police,
CCB (City Crime Branch) Police Station
Coimbatore.
(Crime No.18 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail concerned in Crime No.18 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.R.Sankara Subbu

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 10.09.2020 for the offences punishable under Sections 120(B), 408, 420, 477A and 506(ii) of IPC in Crime No.18 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant Anandkumar, HR Manager of KCP Engineering is that A1 and A3 were in-charge for purchasing the goods to the Company and that they have conspired with other accused as if, they have delivered the goods to the de facto complainant's company and issued cheques and cheated the company to an amount of several crores of rupees. As far as the present petitioner is concerned, the amount transferred to his account is Rs.30,03,496.

3. The learned counsel appearing for the petitioner would submit that this is the second application for bail and the earlier application for bail was dismissed by this Court in Crl.O.P.No.17686 of 2020 by order dated 10.11.2020. He would submit that the

petitioner is an innocent and he has been made as a scapegoat in this transaction. He would submit that believing the words of A1, the petitioner had received money in his account and thereafter, as per the direction of A1, he withdrew the money and the same has been transferred to the accounts of A1 and A2 who are the main accused in this case. He would further submit that the entire case of the prosecution is borne out by records and the respondent has also completed the investigation and filed the final report and that the same has been taken on file in C.C.No.1888 of 2020 on the file of the Judicial Magistrate-VII, Coimbatore. He would submit that the petitioner is prepared to co-operate for the progress of trial and also prepared to appear before the respondent for any further investigation and that the petitioner has been suffering incarceration for more than 90 days from 10.09.2020. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would oppose stating that the petitioner conspired with the main accused/A1 and A2 who are the employees of the de facto complainant's company namely KCP Engineering, without supplying the goods to the de facto complainant's company and by fabrication of documents and bills, cheated the company to the tune of Rs.17,71,496/- out of which, an amount of Rs.30,03,496/- has been transferred to the account of the petitioner. He would submit that the investigation has been completed and final report has been filed and the same has been taken on file in C.C.No.1888 of 2020 on the file of the Judicial Magistrate-VII, Coimbatore.

5. Taking into consideration the facts and submissions made by the learned counsels and the fact that the investigation has been completed and final report has been filed and it has been taken on file in C.C.No.1888 of 2020 on the file of the Judicial Magistrate-VII, Coimbatore and also considering the period of incarceration suffered by the petitioner, 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.50,000/- (Rupees Fifty Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate-VII, Coimbatore, 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 on his release from prison shall appear before the Judicial Magistrate-VII, Coimbatore, everyday at 10.30 a.m. for a period of four weeks and thereafter, on the dates fixed by the trial Court without fail.

(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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

11/12/2020

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 JUDICIAL MAGISTRATE,
NO.VII, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
CCB (CITY CRIME BRANCH) POLICE STATION,
COIMBATORE.

+1 CC to M/S.R.SANKARASUBBU Advocate on payment of necessary charges SR.No.8140

CRL OP.19650/2020

Date :11/12/2020