



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P. (MD) .No.204 of 2020

WEB COPY

V. Rajadurai

...Petitioner/ Petitioner A4

Vs.

The State rep. by
The Inspector of Police,
Economic Offence Wing-II,
Madurai.
(Crime No. 3 of 2017)

... Respondent/Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to modify the condition Nos.2 & 3 imposed in paragraph 9 of the order, dated 02.01.2020 passed in Crl.M.P. No.4825 of 2019 by the Special Court under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997, Madurai.

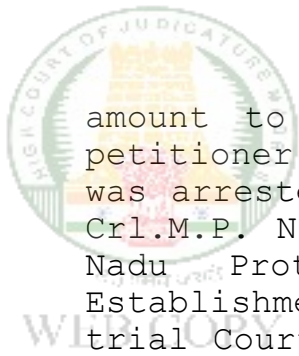
For Petitioner : Mr.D. Shanmugaraja Sethupathi

For Respondent : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to modify the condition Nos.2 & 3 imposed in paragraph No.9 of the order, dated 02.01.2020 in Crl.M.P. No.4825 of 2019 passed by the Special Court under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997, Madurai.

2. The brief facts of the prosecution case is that a complaint given by one Thangarasan, Madurai against one Pappa Rajendran and Devi Rajendran, a case in Crime No.3 of 2017 was registered by the respondent police. The allegations in the complaint is that the accused Nos.1 & 2 had established the financial establishment in the name and style of Alwin Golden City limited, Chennai and established a Branch Office at Madurai. The further averments is that the accused Nos.1 & 2 have approached the defacto complainant at his house in the year 2013 with the promise of returning the deposited amount with interest, double the invested amount and believing their words, the defacto complainant had invested a sum of Rs.4 lakhs on instalment basis. Even, subsequent to maturity, the accused have not returned the matured amount to the defacto complainant. Further, it was also found that the accused had not repaid the



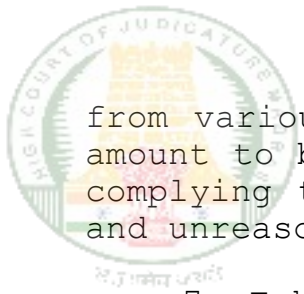
amount to the tune of Rs.36 lakhs to various depositors. The petitioner being one of the directors of Alwin Golden City Limited was arrested and hence, the petitioner has filed a bail petition in Crl.M.P. No. 4825 of 2019 before the Special Court under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, Madurai and after hearing both sides, the trial Court has passed a conditional order directing the petitioner to deposit a sum of Rs.5 lakhs in this case and the said amount was directed to be used for victim for settlement. Aggrieved over the same, the petitioner is filed the instant Criminal Original Petition seeking to modify the condition Nos.2 & 3 imposed in paragraph No.9 of the order, dated 02.01.2020.

3. The learned counsel appearing for the petitioner would submit that the petitioner was only a formal director in the Company. He would further submit that the petitioner was arrested on 16.12.2019 and that he is in judicial custody for the past 23 days. He would further submit that he has filed a petition for bail before the trial Court and the learned trial Judge has imposed the condition, directing the petitioner to deposit a sum of Rs. 5 lakhs which is onerous and unreasonable in nature. He would further submit that the petitioner was only a formal director and he ceased in December 2015. He would further submit that imposition of condition to deposit a sum of Rs.5 lakhs is onerous of nature. He would further submit that the properties worth about Rs.50 lakhs of the company has been attached by the respondent police. He would further submit that in respect of similar complaint registered by EOW-II, Villuppuram in Crime No. 1 of 2019 and the petitioner was arrested and later ordered to be released on bail without any condition to deposit cash. Since the petitioner is judicial custody from 16.12.2019 thereby, would seeks to modify the imposed condition Nos.2 & 3 in paragraph No.9 of the impugned order.

4. He would further submit that the ***Apex Court repeatedly held that the term 'any condition' used in the provision should not be regarded as conferring absolute power of law to impose any condition that it chooses to impose any condition has to be interpreted as a reasonable condition acceptable in the facts permissible in the circumstance and effective in the pragmatic sense and should not defeat the order of grant of bail.***

5. In support of his contention, the learned counsel appearing for the petitioner relied on the Judgment of the Apex Court in the case of ***Sumit Mehta Vs. State of N.C.T. of Delhi reported in 2013 (1) Scale, 374.***

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was one of the Director of Alwin Golden City Limited and the company had collected money



from various depositors and settled a sum of Rs.37 lakhs remaining amount to be paid. This Court is of the opinion that the condition complying the petitioner to deposit a sum of Rs.5 lakhs is onerous and unreasonable.

7. Taking into consideration of the facts and circumstances of the case, the condition imposed by the learned Special Judge under TNPID Act Cases, Madurai in Crl.M.P. No. 4825 of 2019, dated 02.01.2020, directing the petitioner to deposit a sum of Rs. 5 lakhs in this case is set aside and all other conditions remain unaltered.

8. With the above observations, the instant Criminal Original Petition is partly allowed.

Sd/-

Assistant Registrar

/ True Copy /

/ /2020

Sub Assistant Registrar (CS-II)

To

1. The Special Judge under the TNPID Act Cases,
Madurai.
2. The Inspector of Police,
Economic Offence Wing-II, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate
(SR-562[F] dated 07/01/2020)

Crl.O.P. (MD).No.204 of 2020
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