

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.1660 of 2021

R.Selvan alias Palanivel

... Petitioner

Vs.

State Represented by

The Deputy Superintendent of Police,

E.O.W II, Namakkal,

Namakkal District.

(Crime No.2 of 2015)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2 of 2015 pending investigation on the file of the Deputy Superintendent of Police, E.O.W, II, Namakkal.

For Petitioner : Mr.R.Anbukarasu

For Respondent : Mrs.M.Prabhavathi

Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner/A6, who was arrested and remanded to judicial custody on 04.12.2020 for the offence punishable under Sections 420 of IPC and 5 of TNPID, in Crime No.2 of 2015, seeks bail.

2. The case of the prosecution is that one Patchirajan, who is A2 in this case, induced the Public to deposit money in this Firm which is as A1, Further, A2 to A4 are the Directors of the A1 Company, A5 is the Manager of A1. Further, the petitioner along with other accused persons have collected a sum of Rs.33 Crores and cheated the so many depositors. Further, they did not repay the amount and cheated them Further in this case A2 is the main accused and entered into a sale agreement with the original owner in Survey No.351 & 352 of Kattor, Kattu kuttai, Rasipuram Village of Namakkal District and paid sale consideration for the deposited money, and obtained a Power of Attorney from them infavour of A5. In turn he sold the property to the petitioner. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner has purchased a property for proper sale consideration and he has not collected any deposit. He would

further submit that only A1 to A5 involved in this case. Now, the property was also attached by the competent authority under the TNPID. He would further submit that the petitioner is in judicial custody more than 70 days. He would further submit that so far no final report has been filed. Hence he prays to grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that earlier this Court appointed a Former Judge of this Court, as Commissioner/ Nodal Officer to settle amount to depositor, the learned Commissioner, directed the petitioner to cancel the sale deed and return the property. But the petitioner has not comply with the condition and she would submit that so far no final report has been filed. Hence, she vehemently opposed for grant of bail to the petitioner.

5. Considered the rival submissions made on either side. On perusal of the FIR, it is seen that the petitioner is arrayed as A6 and the allegation that he has purchased the property for cheap rate and there is no other specific over act against this petitioner. It is also now stated that the property has been attached by the competent authority and the petitioner is in judicial custody more than 70 days and the petitioner is entitled for statutory bail under Section 167(2) Cr.P.C.,

6. Taking into consideration the above facts and circumstances of the case and also taking note of the fact that the petitioner is in jail for more than 70 days, 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 Special Court under TNPID Act, 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 report before the respondent police daily 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
15/02/2021

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 SPECIAL COURT UNDER
TNPID ACT, COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
E.O.W.II, NAMAKKAL,
NAMAKKAL DISTRICT.

CC to M/S. S.SENTHIL Advocate on payment of necessary charges

CRL OP.1660/2021

Date :15/02/2021