

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3448 of 2021

R.Hemnath

... Petitioner

Vs.

State rep by its
The Inspector of Police,
CCB, Vepery Police Station,
Chennai.
Cr.No.789 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.789 of 2015 on the file of the respondent police.

For Petitioner : Mr.V.Devendhiran

For Intervenor : Mr.M.Jaikumar

For Respondent : Mrs.M.Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 24.12.2020 for the offence punishable under Sections 420 & 506(i) of IPC in Crime No.789 of 2015, seeks bail.

2. Totally, there are 2 accused and the petitioner is A2. The case of the prosecution is that the petitioner and the defacto complainant's family are known persons. He introduced himself to the defacto complainant stating that he is having contact with the political persons and also assured that he can get medical seat to the daughter of the defacto complainant and two other persons. The petitioner had received a sum of Rs.1,05,00,000/- in the year 2011 and thereafter, failed to get the medical seat and thereby defrauded the defacto complainant. Earlier, the defacto complainant has given a complaint in the year 2013 and that was treated as CSR and in the year 2015, enquiry was conducted in CSR No.52 of 2014, in which, the petitioner assured that he will return Rs.40 lakhs. Thereafter, he has also repaid a sum of Rs.10 lakhs, however, failed to pay the remaining sum of Rs.30 lakhs as promised. Since the petitioner has not fulfilled the promise, another complaint was given, which

was registered in Cr.No.789 of 2015. After investigation, absconding final report has been filed. In the mean time, the petitioner was arrested in another criminal case and hence, on P.T. Warrant he was arrested on 24.12.2020. Now, seeking bail the present application has been filed.

3. The learned counsel for the petitioner would submit that the occurrence has taken place in the year 2011. Even though the petitioner received the money, he has handed over the entire amount to the broker and he has not cheated the defacto complainant. To avoid controversy, already, he has paid a sum of Rs.10 lakhs to the petitioner. He would further submit that to show his bonafide, now he is also ready to deposit a sum of Rs.15 lakhs. Now, investigation is completed and final report has been filed and he is jail from 24.12.2020.

4. The learned counsel for the intervenor would submit that the petitioner promised to get a medical seat and received a sum of Rs.1,05,00,000/- in the year 2011 from the defacto complainant and cheated the defacto complainant. In the earlier complaint, he has promised to give a sum of Rs.40 lakhs. Out of the said sum, he has paid a sum of Rs.10 lakhs and he has not paid the remaining amount. Hence, he vehemently opposed for granting bail to the petitioner.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that now investigation is completed. Since the petitioner was absconding for a long time, absconding charge sheet has been filed. Subsequently, he was arrested in a P.T. warrant. Hence, she opposed to grant bail to the petitioner.

6. I have considered the submissions made by the counsel and perused the materials available on records.

7. Now, investigation is completed and final report has also been filed. That apart, the petitioner has also come forward to deposit a sum of Rs.15 lakhs (Rupees Fifteen Lakhs only).

8. Taking into consideration of the above facts and circumstance of the case, and the fact that investigation is completed and final report has also been filed 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.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Metropolitan Magistrate, CCB and CBCID Cases, Chennai, 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 is directed to deposit a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the credit of Crime No.789 of 2015 before the Metropolitan Magistrate, CCB & CBCID Cases, Chennai, within a period of eight weeks from the date of release from prison.

(d) the petitioner shall report before the respondent police as and when required for interrogation;

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

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

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

(h) 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 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.

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

-sd/-
26/02/2021

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

TRUE COPY

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

WEB COPY

TO

1 THE METROPOLITAN MAGISTRATE,
CCB AND CBCID CASES, CHENNAI.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CCB, VEPERY POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI

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

+1 CC to M/S.M.JAIKUMAR, Advocate on payment of necessary
charges SR.NO.2431

CRL OP.3448/2021

Date :26/02/2021

TA-01/03/2021



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