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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.5077 of 2020

N.Velappan

... Petitioner

Vs.

State rep by
Inspector of Police,
T-14, Mangadu Police Station (Crime),
Chennai.
(Crime No.94 of 2020)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 438 of Cr.P.C prayed to enlarge the petitioner on bail in the event of arrest or surrender in Crime No.94 of 2020 on the file of the respondent.

For Petitioner : Mr.M.Anandaraj

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)

For Intervenor: Mr.Shujath

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 406 and 420 of IPC in Crime No.94 of 2020 seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the owner of M/s.Hitro Energy Solution (P) Ltd., Chennai, a manufacturer of LED Lights and Fixtures. The petitioner has given a purchase order for supply of LED lights and fixtures for his company, viz., M/s Greenfield Offshore Private Limited to the defacto complainant. The defacto complainant in turn has availed a working capital loan from Indian Bank in his company's name for Rs.5,00,00,000/-. He has manufactured the LED Products and Fixtures and kept the entire stock ready at his warehouse and informed the petitioner about the readiness. The entire stock was verified and signed by petitioner's representatives. Thereafter, the defacto complainant has asked many times to give letter of credit and for completing the export shipment for which the petitioner has given



only promises and assurances on various dates. In spite of the above, the petitioner having not established the proper letter of credit and given the amount due to the defacto complainant nor given any details about the shipment of the materials and the petitioner also not answering the calls made by the defacto complainant and his mobile being switched off, the present complaint has been filed.

3. The learned counsel appearing for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submits that the defacto complainant approached the petitioner to provide letter of credit for the export of the light fixtures to foreign countries. On belief, the petitioner has obtained letter of credit from the Indian Bank for value of Rs.2.5 crores. While so, the petitioner got information that as per the NCLT order dated 06.12.2018, there is an order to initiate the Corporate Insolvency Resolution Process against the defacto complainant, declare moratorium and appoint Interim Resolution Professional under the Insolvency and Bankruptcy Code, 2016 (I&B Code). Due to lack of faith in his business, the petitioner was forced to cancel the letter of credit. Thereby, a dispute arose between the petitioner and the defacto complainant, which has resulted in the defacto complainant giving the present complaint. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) submits that the whole complaint is on account of business conflict between the petitioner and the defacto complainant. In view of the large scale monetary transaction involved, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Learned counsel appearing for the intervenor vehemently objected to the grant of bail and submitted that the amount in dispute between the petitioner and the defacto complainant being very high, grant of bail would enable the petitioner to evade payment to the defacto complainant. However, he fairly submits that if this Court intends to grant bail to the petitioner, stringent conditions may be imposed.

6. The learned counsel for the petitioner, on instructions, submits that the petitioner, without prejudice to his rights, on his own volition, is ready to deposit the amount of Rs.30,00,000/- to the credit of the crime number and also conceded the same to be disbursed to the defacto complainant. However, the learned counsel submitted that before disbursing the amount to the defacto complainant, an affidavit of undertaking shall be obtained from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of Rs.30,00,000/- will be returned.



7. Considering the fact that the petitioner, on his own volition, is ready to deposit the amount of Rs.30,00,000/- to the credit of the crime number, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-I, Poonamalle, Chennai on condition that the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner shall deposit a sum of Rs.30,00,000/- (Rupees Thirty Lakhs Only) to the credit of Cr.No.94 of 2020 before the Judicial Magistrate-I, Poonamalle, Chennai within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the learned Judicial Magistrate-I, Poonamalle, Chennai shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of Rs.30,00,000/- deposited by the petitioner to the credit of Cr.No.94 of 2020 will be returned to the petitioner and after obtaining such affidavit of undertaking from the defacto complainant, the trial court shall disburse the said amount to the defacto complainant within a period of two weeks thereafter;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

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

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

(e) on breach of any of the aforesaid conditions, the learned 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]; and;



(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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23/06/2021

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 JUDICIAL MAGISTRATE,
NO.I, POONAMALLEE, CHENNAI

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 INSPECTOR OF POLICE,
T-14 MANGADU POLICE STATION, (CRIME),
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.5077/2020

Date :23/06/2021

RVR 19/07/2021