

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.5385 of 2021

Kathirvel

... Petitioner

Vs.

State by

The Inspector of Police,
District Crime Branch,
Cuddalore Police Station,
Cuddalore District.
(Crime No.2 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused on bail in Crime No.2 of 2021 on the file of the respondent police pending investigation.

For Petitioner : Mr.M.Ravindhar

For Respondent : Mrs. M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 11.01.2021 for the offence punishable under Sections 406, 420, 506(i) and 34 of IPC in Crime No.2 of 2021, seeks bail.

2. Totally, there are 2 accused and the petitioner is arrayed as A1. The case of the prosecution is that both the A1 and A2, who are father and son, doing online trading, and received a sum of Rs.85 lakhs from the defacto complainant and also assured to repay the amount on various installments. But, they failed to repay the amount. Earlier, when the defacto complainant approached the accused, they have given a written undertaking stating that they will pay a sum of Rs.7 lakhs on or before 5th of every month, on monthly installments and promised to repay a sum of Rs.85 lakhs within a period of one year and they have also given 2 undated cheques for a sum of Rs.35 lakhs and Rs.50 lakhs. Even thereafter, they failed to pay the amount. Hence, the complaint came to be registered.

3. The learned counsel for the petitioner would submit that the petitioner and the defacto complainant are partners and doing online business for the past 5 years and they were close friends. Due to the loss in the business, the defacto complainant is demanding entire money paid by him and also demanding a huge sum by creating bogus agreement. The petitioner is in jail from 11.01.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing would submit that the petitioner and his son, received a sum of Rs.85 lakhs from the defacto complainant for doing online business, but, failed to repay the same. Now, A2 is still absconding. Now, investigation is still pending.

5. I have considered the submissions made on either side and perused the materials available on records carefully.

6. Considering the above said facts and circumstances of the case, and the fact that both the petitioner and the defacto complainant were doing online trading and A2, who is the son of the petitioner, is the main person, who said to have received the money 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) The petitioner is directed to pay a sum of Rs.10,00,000/- (Rupees Ten lakhs only) to the credit of Crime No.2 of 2021 before the Judicial Magistrate, Tittakudi, within four(4) weeks from the date of receipt of a copy of this order;

(b) On such deposit, 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 Judicial Magistrate, Tittakudi, and on further conditions that:

(c) 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;

(d) the petitioner, on release from the prison, 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;

(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.

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

-sd/-
25/03/2021

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,
TITTAKUDI.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
CUDDALORE POLICE STATION,
CUDDALORE DISTRICT.

+1CC to M/S. M.RAVINDHAR Advocate on payment of necessary charges SR NO.4016

CRL OP.5385/2021

Date :25/03/2021