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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.5685 of 2020

N.Ishwant Singh
S/o.Late Sri Narsingh

... Petitioner

Vs.

1.State rep.by
Inspector of Police,
Central Crime Branch,
Chennai.
(Cr.No.281 of 2019)

2.Mrs.Jayalakshmi
(R2 Impleaded as per order dated 25/02/2021 in Crl.M.P.No.3747
of 2020 in Crl O.P.No.5685/2020) ... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 (1) (b) of Cr.P.C, prayed to call for the records comprising in Crl.MP.No.212 of 2020 dated 05.02.2020 by the learned Judicial Magistrate No.1, Alandur and to set aside the same.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.Shanmuga Rajeswaran
R1 Government Advocate (Crl.Side)
R2 : K.G.Senthilkumar

ORDER

This petition is filed to call for the records comprising in Crl.M.P.No.212 of 2020 dated 05.02.2020 passed by the Judicial Magistrate-I, Alandur and to set aside the same.

2. The case of the prosecution is that the Court below, while granting bail to the petitioner, imposed a condition that the petitioner should deposit a sum of Rs.10,00,000/- in the loan account and on further condition that the petitioner shall take immediate steps to regularize the loan account and repay



the loan amount to the defacto complainant after deducting alleged amount of Rs.59,000,000/- To set aside the said order, which, according to the petitioner is onerous, the present petition has been filed.

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3. The learned counsel for the petitioner submits that the petitioner is running a business in the name and style of M/s Satnaam Industries: Meanwhile, one mediator A.Baskar introduced the defacto complainant for the purpose of development of business. Thereafter, the petitioner and the defacto complainant entered into a loan transaction with the Indian Bank for a sum of Rs.1,50,000/- and it was invested in the petitioner's company namely M/s Satnaam Industries. As per the partnership deed, the defacto complainant has rights to 20% and petitioner has rights to 80% of the profits. The business has been running only for 6 months, is yet to be yield any profits. Therefore, the petitioner was unable to pay the profits to the defacto complainant. He further submit that the petitioner has complied with all the other conditions imposed by the Court below, but he was not able to mobilize the money and deposit the amount of Rs.1,00,000/= as ordered by the Court below. It is further submitted that the condition for deposit of the above said amount is onerous considering the amount invested by the defacto complainant. Hence, he prays for just and reasonable directions.

4. The learned counsel appearing for the intervenor submits that the petitioner had obtained loan for his business in the name of the husband of the defacto complainant by way of getting an un-registered partnership deed, but he failed to pay the interest for the loan account and equally he failed to pay the loan amount. Thereafter, the petitioner and one other accused by name Babu entered into a criminal conspiracy to grab the property of the defacto complainant.

5. The learned Additional Public Prosecutor opposed the grant of bail by stating that the petitioner attempted to grab the property of the defacto complainant illegally and he has not complied with the condition imposed by the Court below.

6. On perusal of records it is clear that the petitioner was already granted bail on 05.02.2020, but till date the petitioner has not complied with the condition of deposit of the amount imposed by the trial court. Considering the fact that the petitioner has admitted receipt of money from the defacto complainant, it is needless to state that when an allegation is



raised, the interests of both sides have to be adequately balanced. In such a backdrop, the trial court had imposed the above condition, which cannot be said to be unreasonable. However, this Court feels that some more time may be granted to the petitioner to mobilise the amount and deposit the same.

7. Accordingly, this petition is disposed of by granting a further period of eight weeks to the petitioner from the date of receipt of a copy of this order, for depositing the entire balance of loan amount, failing which the respondent police shall take steps to secure the accused/petitioner and the bail granted by the Court below would stand cancelled automatically.

Accordingly this Criminal Original petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

smn/vv
To

1. The Judicial Magistrate No.1,
Alandur.
2. -Do- Thro-The Chief Judicial Magistrate,
Chennai.
3. The Inspector of Police,
Central Crime Branch, Chennai.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Prem Anand, Advocate Sr.23345

Cr1.O.P.No.5685 of 2020

sv[co]
srg 26/07/2021