

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2021

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.OP.No.7379 of 2020

S.T.Niyaz Rahman

.. Petitioner

-VS-

State Rep by
Inspector of Police,
Central Crime Branch,(EDF-1 Team)
Egmore, Chennai 600 104.
Cr.No.351 of 2014

.. Respondent

Prayer: Criminal Original petition is filed under Section 439 Cr.P.C. To enlarge the petitioner on bail in connection with the case in Crime No.351 of 2014 on the file of the respondent police.

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For Petitioner : Mr.S.Suresh

For Respondent : Mr.R.Aneegan
Government Advocate (Crl.Side)

For Intervenor : Mr. S. Shankar

ORDER

This Criminal Original Petition has been filed by the first accused seeking bail for the alleged offences under Sections 406, 409, 420, 468 and 471 read with 120-B of IPC .

2. The case of the prosecution is that when the petitioner was working as Accounts Manager in the defacto complainant's company, he has started two shops under the name of Sangam and Sara Traders and diverted the cheques which were received by the defacto complainant's company to the credit of his shops and also misused the defacto complainant's cheques and misappropriated to the tune of Rs.3,11,92,243/- and purchased several properties in the name of his wife and also his brother and father.

3. The learned counsel for the petitioner has submitted that on earlier occasion, this Court has dismissed the bail application filed by the petitioner herein in Crl.OP.No.5045 of 2020 dated 09.03.2020 and thereafter he filed the present petition seeking bail. He further submitted

that considering the fact that the petitioner was in custody for nearly four months and charge sheet was also filed and also the fact that Covid-19 is spreading, this court has granted interim bail to the petitioner by the order dated 30.04.2020. He further submitted that from the date of release, on bail, the petitioner has been regularly complying with the conditions and also regularly appearing before the trial court and therefore, he prayed to grant regular bail to the petitioner.

4. As per the order passed in Crl.MP.No.4753 of 2020, the defacto complainant's son namely Mr.Mohamed Aslam has been permitted to intervene in this bail application.

5. The learned counsel for the intervenor has submitted that the petitioner herein had misappropriated a sum of Rs.3,11,92,243/- and purchased several properties in the name of his wife and also his brother and father. He further submitted that even after filing of the charge sheet, the petitioner was absconding and with great difficulty, the non-bailable warrant was executed and the petitioner was arrested and remanded to judicial custody on 06.12.2019. He further submitted that this court,

taking into consideration the conduct of the petitioner, has dismissed the previous bail application i.e, Crl.OP.No.5045 of 2020 holding that if the petitioner is released on bail, he may not co-operate for trial. He further submitted that after dismissal of the said bail application, the petitioner has filed the present petition seeking bail. This Court by taking into consideration the prevailing circumstances and spreading of Covid-19 Virus, interim bail granted by the order dated 30.04.2020. He further submitted that if regular bail is granted, the petitioner may not co-operate for trial and once again he may abscond and in such a case, the trial will be jeopardized and therefore, he prayed to dismiss this petition.

6. The learned Government Advocate (Crl.Side) had adopted the arguments advanced by the learned counsel for the intervenor and he also opposed to grant bail to the petitioner.

7. This Court, taking into consideration, the conduct of the petitioner that he was absconding for nearly five years and he was arrested only on 06.12.2019, had dismissed the previous bail application i.e., Crl.OP.No.5045 of 2020 on 09.03.2020. Thereafter, the petitioner has

filed the present petition seeking bail. This Court by the order dated 30.04.2020 had granted interim bail with the following conditions:

“i) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison;

ii) the petitioner shall not leave Tamil Nadu during the interregnum period;

iii) the petitioner shall surrender his passport, if any, to the Superintendent of the concerned prison before release.”

8. In pursuance of the said order, the petitioner was released on bail and it is represented that he is regularly appearing before the trial court without any deviation.

9. In the interim order itself, this court has directed the petitioner that he shall not leave Tamil Nadu when he is on bail and also he should surrender his passport, if any, to the Superintendent of concerned prison.

The same condition can also be imposed for granting regular bail.

10. The learned counsel for the intervenor has expressed an apprehension that if the petitioner is released on bail, he may dispose his property and for that, the learned counsel for the petitioner has submitted that he will instruct the petitioner to file an undertaking affidavit as not to dispose of the properties till the disposal of the case and also to surrender the title deeds before the trial court.

11. Accordingly, the petitioner is ordered to be released on regular bail on his executing 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 Metropolitan Magistrate CCB and CBCID Cases, Egmore, Chennai and on further conditions that:

[a] the petitioner shall not leave Tamil Nadu until further orders;

[b] If the petitioner already surrendered the passport, with the Superintendent of the Prison, as directed in the interim order, the petitioner shall get back the same and surrender before the trial court.

[c] the petitioner shall file an undertaking affidavit stating that he will not dispose of his properties and also surrender the title deeds before the trial court.

[d] 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 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]**.

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

[f] The petitioner shall execute the bail bond with sureties, surrender passport, if any, to the trial court, file undertaking affidavit as aforesaid and surrender title deeds within three weeks from the date of receipt of copy of this order.

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

21.01.2021

(½)

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Index : Yes/No

Speaking/Non-speaking Order

Vv

Note: Issue order copy today (21.01.2021)

P.RAJAMANICKAM.J.,

Vv

To

1. The Metropolitan Magistrate,
CCB and CBCID Cases,
Egmore, Chennai.
2. The Inspector of Police,
Central Crime Branch,(EDF-1 Team)
Egmore, Chennai 600 104.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison,
Puzhal, Chennai.

CRL.O.P.No.7379 of 2020

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