



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.Nos.13942, 13270, 13283 and 13940 of 2021

M/s.Tanun Electrical Engg Works Pvt. Ltd.

Represented by its Founder

K.Rameshkumar ... Petitioner in all the Cr1.O.Ps.

Vs.

1.C.P.Shivkumar	... Respondent in Cr1.O.P.13942/2021
1.Sunitha	... Respondent in Cr1.O.P.13270/2021
1.Ashokkumar	... Respondent in Cr1.O.P.13283/2021
1.P.Gopi	... Respondent in Cr1.O.P.13940/2021

2.The Inspector of Police,
Central Crime Branch,
Team - V, Forgery Wing,
Vepery,
Chennai - 7.
(Crime No.108 of 2021) ... Respondent in all the Cr1.O.Ps.

Prayer in Cr1.O.P.Nos.13942 and 13270 of 2021:

Petitions filed under Section 439(2) read with 482 of Cr.P.C., seeking to cancel the anticipatory bail granted to the respective 1st respondent in Cr1.M.P.Nos.10670 and 10669 of 2021 respectively, by the Hon'ble Principal Sessions Judge, Chennai on 16.06.2021.

Prayer in Cr1.O.P.Nos.13283 and 13940 of 2021:

Petitions filed under Section 439(2) read with 482 of Cr.P.C., seeking to cancel the bail granted to the respective 1st respondent in Cr1.M.P.Nos.11385 and 11684 of 2021 respectively, by the Hon'ble CCB and CBCID Metropolitan Magistrate Court at Egmore, Chennai on 11.05.2021 and 21.05.2021 respectively.



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For Petitioner : Mr.C.Iyyanar
in all the CrI.O.Ps.

For Respondents : Mr.Palaniandavan for R1
in CrI.O.Ps.13270 and 13283/2021

M/s.Hema Sampath for R1
Senior Advocate
for M/s.K.Priyadharshini
in CrI.O.P.13940/2021

Mr.C.E.Pratap for R2
for P.P.
in all the CrI.O.Ps.

COMMON ORDER

The petitioner has filed these petitions seeking to cancel the anticipatory bail and bail granted to the respective first respondents. Since the issue involved in these petitions are interconnected, they are heard together and disposed of by way of a common order.

2.The case of the petitioner is that he is the promoter of M/s.Tanun Electrical Engineering Works Private Limited/ defacto complainant. During the year 2016, through an acquaintance in Chennai, he met A1 who introduced himself as a Promoter of M/s.Carrie AllCar Private Limited and induced the petitioner to invest for developing and launching onroad Electric Vehicles (Electric Autorickshaws) in India and also made lucrative assurances to get more profit on the business. The petitioner accepted the offer and entered into an memorandum of understanding on 05.11.2018. Thereafter, the accused received money on various occasions totalling to a sum of Rs.4,43,03,000/-, however, they did not initiate any work for the EVs and misappropriated the amount. Hence the petitioner lodged the complaint.

3.Pursuant to the complaint lodged by the petitioner, A1 and A2 were arrested and thereafter enlarged on bail. A3 and A4 were granted anticipatory bail. Challenging the same, these petitions have been filed.



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4.The learned counsel appearing for the petitioner would submit that though the petitioner made several allegations in the complaint, the crucial issue before this Court is the huge amount transferred in the name of A1 who induced the petitioner to invest the amount and thereafter the said amount was transferred to other accused. He further submitted that the petitioner believing the sugar coated words of A1, collected huge amounts from the foreign Entrepreneur and invested the money for purchase of EV components. The second accused is the Scientist, third accused is the daughter of A2 and the fourth accused acted as middle man for transferring of funds inbetween the defacto complainant and accused, however, the Trial Court without considering the amount involved in the transaction granted bail and anticipatory bail to the accused, which is un-sustainable one.

5.The learned counsel appearing for the petitioner would further submit that since the accused have cheated the defacto complainant to the tune of Rs.4,43,03,000/- and since the said amount was borrowed by the defacto complainant from the foreign Entrepreneurs, this Court may cancel the bail and anticipatory bail granted to the accused by considering the supervening circumstances.

6.The learned Senior Counsel appearing for the first respondent in CrI.O.P.No.13940 of 2021 would submit that the petitioner alleged that he transferred a sum of Rs.4,43,03,000/- to A1, however, the fact remains that the petitioner and A1 entered into an memorandum of understanding on 05.11.2018 and there is a clause in the said memorandum of understanding as per which, if any dispute arise inbetween the parties, the parties have to refer the matter for arbitration for resolving the dispute. The learned counsel would further submit that instead of approaching the Arbitrator as contained in the memorandum of understanding, the petitioner has filed the complaint before the law enforcing agency, which is un-sustainable one.

7.The learned Senior Counsel appearing for the first respondent in CrI.O.P.No.13940 of 2021 would further submit that it is purely commercial transaction inbetween the petitioner and A1. Infact on earlier occasion, during the year 2020, the petitioner himself entered into a convertible loan agreement with



NPK Investments, Virginia for a loan of US \$300,000 and again during January, 2021, the petitioner borrowed money from NPK Investments, in which A1 stood as Guarantor. However, suppressing all these facts, the petitioner has filed the present complaint, which is not sustainable.

8.The learned Senior Counsel appearing for the first respondent in CrI.O.P.No.13940 of 2021 would further submit that the Trial Court after considering all the issues granted bail to A1, which does not warrant any interference. Further, as per the decision of the Hon'ble Apex Court reported in (1995) 1 SCC 349 (Dolat Ram Vs. State of Haryana), rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

9.The learned counsel appearing for the first respondent in other criminal original petitions would submit that the entire allegation is made as against A1 and no allegation is made against the other accused, hence, lodging complaint and implicating them as accused is not sustainable. Infact there is no money transaction inbetween the defacto complainant and other accused and they also adopted the argument advanced by the learned Senior Counsel appearing for the first respondent in CrI.O.P.No.13940 of 2021.

10.Heard the arguments advanced on either side and perused the materials available on record. Rendering any opinion on the merits of the case will adversely affect the parties. Hence, this Court refrains itself from expressing its opinion on the merits of the case.

11.Admittedly, the petitioner and A1 entered into an memorandum of understanding on 05.11.2018 and there is a clause in the said memorandum of understanding as per which, if any dispute arise inbetween the parties, the parties have to refer the matter for arbitration for resolving the dispute. Instead of



approaching the Arbitrator as contained in the memorandum of understanding, the petitioner has filed the complaint before the law enforcing agency.

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12.Further, it appears that during the year 2020, the petitioner entered into a convertible loan agreement with NPK Investments, Virginia for a loan of US \$300,000 and again during January, 2021, the petitioner borrowed money from NPK Investments, in which A1 stood as Guarantor. However, all these facts have not been mentioned in the F.I.R.

13.Further, there is no supervening circumstances to interfere with the bail and anticipatory bail granted by the Trial Court and this Court is not inclined to grant the relief sought for in these petitions.

14.These criminal original petitions are accordingly dismissed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Central Crime Branch,
Team - V, Forgery Wing,
Vepery, Chennai - 7.
(Crime No.108 of 2021)

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+2cc to Mr.R.Palaniandavan, Advocate, S.R.No.50432,50433

+1cc to Mr.R.Anish Kumar, Advocate, S.R.No.50604

Cr1.O.P.Nos.13942, 13270,
13283 and 13940 of 2021

AK-II(CO)

SB(26/10/2021)