IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Third day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.18839 of 2020

S.MOHANKUMAR [PETITIONER / ACCUSED]

Vs

THE STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH TEAM II,
EGMORE, CHENNAI-600 008.
CR.NO.357 OF 2018.

For Petitioner : M/S.AL.GANTHIMATHI Advocate

For Respondent : M/S.S.KARTHIKEYAN, Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

(The case has been heard through video conference)

The petitioner, who apprehends arrest in connection with the case in Crime No.357 of 2018 on the file of the respondent police for the alleged offence u/s 420 of IPC of IPC, seeks anticipatory bail.

2. I have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and also perused the records carefully.

3. The allegation is that the petitioner, claiming to be the General Power of Attorney in respect of huge extent of land, had approached the de facto complainant and received a sum of Rs.90,00,000/- in July 2014 promising to sell some of the landed properties to him. Later on, he neither conveyed the properties nor returned the amount. Hence, the case came to be registered on a complaint from the de facto complainant.

4. The learned counsel for the petitioner submitted that the amount received was not money consideration for sale of immovable properties and there were money transactions between the petitioner in one part and one Ranganathan and the de facto complainant on the

other part. The money was received actually on behalf of Ranganathan and therefore, ultimately, the said Ranganathan alone was liable to pay the amount. Subsequently, the said Ranganathan also agreed to return the amount to the de facto complainant and also issued cheques to the de facto complainant. When those cheques were presented for collection, the were returned dishonoured, therefore, a private complaint was filed by the de facto complainant against the said Ranganathan and the same has been taken cognizance in S.T.C.No.4441 of 2019 on the file of the learned Metropolitan Magistrate, Fast Track-II at Egmore. Earlier, the said Ranganathan had cheated the petitioner also, therefore, the petitioner has also filed a private complainant against the said Ranganathan which has been taken cognizance in C.C.No.1085 of 2013 by the learned II Metropolitan Magistrate, Egmore, Chennai. When the de facto complainant could not able to get back the amount from the said Ranganathan, he had given a false complaint in the year 2018, as if the petitioner had received the amount and cheated him.

5. The learned counsel further submitted that the petitioner is a permanent resident of Chennai and he is ready to abide by any conditions that maybe imposed by this court in the event of granting anticipatory bail.

6. The learned Additional Public Prosecutor stoutly opposed the petition stating that it was this petitioner who had received the amount directly from the de facto complainant through RTGS in the guise of transferring immovable properties as General Power of Attorney and cheated him. The petitioner neither conveyed the properties as agreed nor returned the amount. According to him, investigation is still pending. He would further submit that there is no allegations against Ranganathan and the said Ranganathan is not at all arrayed as accused in this case.

7. I have considered the rival submissions carefully.

8. On a perusal of the records, it could be seen that the amount was paid to the petitioner in July 2014. The learned counsel for the petitioner has also enclosed a letter, in the typed set of paper, said to have been written by the de facto complainant to show that the amount was transferred to the petitioner's account, which was meant to be paid to the said Ranganathan. There is no mentioning in the letter about the sale transaction. That apart, from a perusal of the private complainant filed by the de facto complainant under Section 138 of The Negotiable Instruments Act, it could be seen that the said Ranganathan himself had the de facto complainant to return the amount of Rs.1,05,53,139/- and accordingly, he had issued cheques and on presentation, they were returned dishonoured, which are the subject matter in S.T.C.No.4441 of 2019. Considering the above, this court is of the prima facie view that it is purely a money dispute between the petitioner in one part and the de facto complainant and

one Ranganathan on the other part and therefore, this court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :-

a) 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 Chief Metropolitan Magistrate, Special Court for CCB and CBCID Cases, Egmore, Chennai, on 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police as and when required by the police for interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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 himself /Trial Court as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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

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

-sd/-
23/03/2021

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 CHIEF METROPOLITAN
MAGISTRATE, SPECIAL COURT CCB AND CBCID
CASES, EGMORE, CHENNAI

2 THE METROPOLITAN MAGISTRATE
FAST TRACK - II AT EGMORE, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH TEAM II,
EGMORE, CHENNAI-600 008.

CC to M/S.AL.GANTHIMATHI Advocate on payment of necessary charges SR.NO.3965

CRL OP.18839/2020

Date :23/03/2021

rvr 30/03/2021