IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Monday, the Thirty First day of January Two Thousand Twenty Two

PRESENT

The Hon`ble Mrs Justice T.V.THAMILSELVI

CRIMINAL ORIGINAL PETITION No.702 of 2022

K.ZAKIR HUSSAIN [ PETITIONER / ACCUSED ]

Vs

STATE REP BY [ RESPONDENT ]
THE INSPECTOR OF POLICE,
SPE, CENTRAL BUREAU OF INVESTIGATION,
ACB, CHENNAI.

For Petitioner : M/S.S.KAMALAKANNAN, Advocate for
M/S JAYASUDHA Advocate

For Respondent : MR.K.SRINIVASAN, Special Public Prosecutor
for CBI-cases

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

**(The case has been heard through video conference)**

The petitioner who was arrested and remanded to judicial custody on 20.09.2021 for the offences under Sections 120(B), 419, 420, 409, 467, 468, 471 of IPC and under Sections 3(1)(a) read with 13(2) of Prevention of Corruption Act, 1988 (as amended in 2018) in Crime No.RC0322020A0006/CBI/ACB, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner/A11 along with other accused committed impersonation, fraud, forgery and cheating in Term deposits and Current Account standing in the name of M/s. Chennai Port Trust in the Koyambedu Branch of Indian Bank, Chennai, and thereby, caused wrongful loss to public money to the extent of Rs.45 Crores approximately and corresponding wrongful gain to the perpetrators themselves. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner was made to believe that the transaction was that of trading and may be paid back over a period of time and that he was not aware of the fact that the current account No.6867825525 in the name of the Chennai Port Trust-General Insurance Fund itself was a forged account, created with fabricated documents through impersonation as alleged and without knowing the fact, the petitioner shared account details of 7 individual persons. He would further submit that a sum of Rs.5 Crores and 11 lakhs in aggregate was credited to 7 different accounts referred by the petitioner and the money was withdrawn and paid in cash to one Sudalaimuthu after deducting the aggregate commission amount of 7% which includes 2% that of petitioner's commission and that the petitioner received a sum of Rs.11 lakhs approximately in the entire transaction as commission. He would further submit that the petitioner has been falsely implicated in this case on wrong surmises and he has been suffering incarceration for more than 4 months from 20.09.2021 with severe diabetic ailments and that he is ready to abide by any conditions imposed by this court. Hence, he would pray for grant of bail to the petitioner.

4. The learned Special Public Prosecutor for CBI filed counter and submitted that during the course of investigation, it has been revealed from the statements of the first link beneficiaries namely 1.Shri Mohammed Shaik, 2.Shri Sappanimuthu 3.Shri Selvam and 4.Shri.Praveen 5.Shri.S.H.Noor Mohamed and the mediators namely 1.Shri.Guru Jessy 2.Shri. Aravind Raj Taiak 3.Shri Seenikutty and Smt.Rani who collected the details of Bank accounts of the first link beneficiaries and given to the petitioner/accused Zakir Hussain (A-11) and his son Halid Batch. It is further submitted that the fund of Chennai Port Trust was credited from the purported current account in the name of Chennai Port Trust General Insurance Fund and the same was credited into the account of aforesaid first link beneficiaries and after the same were withdrawn/transfered by the first link beneficiaries and handed over the withdrawal amount to the petitioner/accused namely Zakir Hussain (A11) and his son Halid Batcha. Further, it revealed by examining the other accused that V.Sudalaimuthu/A1 who acted as kingpin of this crime has obtained information from his friend Suresh, builder from Chennai about the deposits of surplus funds through the Chennai Port Trust employee one Raghu Bernard, Finance Department. It also revealed that initially they put an effort for obtaining the deposits from Tuticorin Port Trust, but it was ended in vain. Further, A1 Sudalaimuthu had taken steps for getting the deposit of surplus funds from Chennai Port Trust through the said Raghu Bernard, working as Assistant Superintendent in Chennai Port Trust by deputing his relative Shri.T.Easakki and Shri.J.Selvakumar (A5) of Chennai and before processing with Chennai Port Trust, A1 put an effort through the witness Shri.Sarath Chandran by approaching the Indian Bank, Koyambedu Branch by furnishing the

board resolution copies of Jalandhar Central Co-operative bank for the investment of Rs.300 Crores and the same was not proceeded as it belongs to different State.

5. The learned Special Public Prosecutor for CBI would further submit that it was further revealed through oral and documentary evidences and also the disclosure statement of accused J.Selvakumar/A5 that on the instructions of A1/Sudalaimuthu, A5/Selvakumar obtained 25 account details in and around Nagercoil and Tirunelveli through A7/Vijay Heralld and the petitioner/A11 and A1 received the withdrawn amount from the account of Chennai Port Trust which was purportedly opened by the accused persons and collected the same by A7 in two occasions at Nagercoil and Tirunelveli and collected the withdrawal amount from the petitioner/A11. Further, it has been revealed through oral and documentary evidences and also the disclosure statement of the petitioner/accused that on the instruction of A1 Sudalaimuthu, the petitioner/A11 had obtained 09 account details of first link beneficiaries of Tirunelveli through his known sources, viz., his son Halid Batcha, Smt.Raji and also A1/Sudalaimuthu and received the withdrawn amount from the account of Chennai Port Trust, which was purportedly opened by the accused persons and withdrawn amount was collected by the petitioner/A11 and handed over the accused A1/Sudalaimuthu. He would further submit that A1 has purchased about 250 acres and steps are being taken to attach those properties and still no amount has been recovered and two charge sheets have been filed and the further investigation is going on.

6. It is seen that the petitioner is alleged to have been involved in a white collar crime. The alleged offence was committed by the petitioner in conspiracy with other co-accused persons in a well planned and thoughtful manner. It has been observed in a catena of decisions by the Hon'ble Superior Courts that economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the Country as a whole and thereby posing serious threat to the financial health of the Country. The Economic Offences are a special and different category of a criminal offence. The crime is committed with an intention to cheat and deceive the people (victims). The economic offence has two major impacts. Firstly, it affects the national economy and simultaneously, it has monetary and pecuniary losses to the victims. Economic offences are that type of criminal offence which alters the financial status of a country no matter how much wealth that nation has. Economic offences are very unique and carry a distinctive type of characteristic feature due to which, the Government and other higher authorities are facing difficulties to curb these offences and to establish a new Act that intensely deals with this offence. The State is not a person-non-grata whose cause may be treated with disdain. The entire Community is aggrieved if the

economic offenders who ruin the economy of the State are not brought to books. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest.

7. Therefore, considering the grave nature of offence and the fact that the amount involved is more than Rs.45 Crores and still the investigation is going on and no money has been recovered and also of the fact that each of the accused has played a crucial role in swindling the money of Chennai Port Trust, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original petition is dismissed.

-sd/-
31/01/2022

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 INSPECTOR OF POLICE,
SPE, CENTRAL BUREAU OF INVESTIGATION,
ACB, CHENNAI.

2 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

+1 CC to M/S JAYASUDHA Advocate on payment of necessary charges
SR.NO.1496

CRL OP.702/2022

Date :31/01/2022

TA-15/02/2022