IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.1230 of 2022

Bharath Kumar ...Petitioner

Vs.

State Represented by
Inspector of Police,
Central Crime Branch,
Bank Fraud Prevention Wing,
Team - 31, Vepery,
Chennai. ...Respondent
(Crime No.179 of 2021)

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.179 of 2021 on the file of the respondent police.

For Petitioner : Mr.P.Ezhil Nilavan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 22.11.2021 for the offences under Sections 120B, 420, 465, 467, 408 & 471 of I.P.C, in Crime No.179 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that one Kiruthika and her husband viz., Vanjinanthan obtained housing from the Punjab National Bank to the tune of Rs.2,09,25,000/- by mortgaging forged and fake documents by way of colluding with the sellers. It is further alleged that the petitioner is doing Real Estate Business . During September 2020, the property owner S.Kumar approached him to sell the property. In turn, being a Broker, the petitioner has approached the aforesaid Kiruthika and her husband viz., Vanjinanthan and introduced them to the house owner S.Kumar and as as a Broker, he has received Broker Commission to the tune of Rs.13,69,501/- from the above said S.Kumar. After the transaction, one Mahaveerchand Dhoka, lodged a complaint to the Bank as if he is real owner of the above house and he claimed

that the legal heir certificate, property documents and death certificate submitted by the said V.Kiruthika are forged one. Based on the complaint, the aforesaid Bank Manager verified all the documents submitted by her are all false. Hence, the Manager of the said Bank lodged a complainant as against the petitioner and others before the respondent police.

2. The learned counsel for the petitioner would submit that the petitioner is no way connected with the alleged offence and based on the confession statement of the co-accused S.Kumar, he has been falsely implicated in this case. He would submit that the petitioner is doing Real Estate Business . During September 2020, the property owner S.Kumar approached him to sell the property. In turn, being a Broker, the petitioner has approached the aforesaid Kiruthika and her husband viz., Vanjinanthan and introduced them to the house owner S.Kumar and as a Broker, he has received Broker Commission to the tune of Rs.13,69,501/- from the above said S.Kumar through IDFC Bank, but, the petitioner has received only Rs.2,46,000/- alone. He further submits that the petitioner is ready to deposit a sum of Rs.5,00,000/- to the credit of Crime No.179 of 2021 to show his bonafide. He further submits that the petitioner has been suffering incarceration for 59 days from 22.11.2021. Hence, he prays to grant bail to the petitioner.

4.The learned Additional Public Prosecutor would raise strong objection stating that the petitioner is arrayed as A5 and the petitioner along with other accused by giving forged documents have obtained loan to the tune of Rs.2,09,25,000/- from the Punjab National Bank. Insofar as the petitioner is concerned, he acted as a commission agent and he has received more than Rs.13 lakhs as commission.

5. It is seen that the investigation in respect of the petitioner, is almost completed. Hence, considering the above facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner and the petitioner is ready to deposit a sum of Rs.5,00,000/- to the credit of Crime No.179 of 2021 to show his bonafide, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the Petitioner has been confined and thereafter on his release;

(b) the petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of Crime No.179 of 2021and on such deposit, the complainant's bank is permitted to withdraw the said deposit amount of Rs.5,00,000/- on proper identification and acknowledgment

(c) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned CCB/CBCID Metropolitan Magistrate Court, Egmore, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(d) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(e) the petitioner shall report before the respondent police on every Tuesday, Thursday and Sunday at 10.30 a.m. until further orders.

(f) the petitioner shall not commit any offences of similar nature;

(g) the petitioner shall not abscond either during investigation or trial;

(h) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) on breach of any of the aforesaid conditions, the learned Judicial 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];

(j) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
20/01/2022

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 CCB / CBCID METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL JAIL, PUZHAL, CHENNAI.

4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
BANK FRAUD PREVENTION WING,
TEAM - 31, VEPERY, CHENNAI .

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. P.EZHIL NILAVAN Advocate on payment of necessary charges

CRL OP.1230/2022

Date :20/01/2022

RW 21/01/2022