IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3044 of 2022

RAJESH SINGH [PETITIONER / ACCUSED]

Vs

STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
CBI, ACB, CHENNAI
(CR.NO. RCO322020A0006 OF 2020)

For Petitioner : M/S.S.MADHUSUDANAN Advocate

For Respondent : M/S K.SRINIVASAN SPECIAL PUBLIC PROSECUTOR FOR CBI CASES

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 09.08.2021, for the alleged offence under Sections 120(B) r/w 419, 420, 409, 467, 468, 471 of IPC and Sections 13(1)(a) r/w 13(1)(d) & 13(2)of Prevention of Corruption Act,1988 in Crime No.RC.0322020A0006 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant lodged a complaint against the petitioner and others alleging that they have created a bogus documents and swindled a sum of Rs.45,00,00,000/- (Rupees Forty Five Crores only) from the account of Chennai Port Trust. Hence, the respondent police registered a case against the petitioner and others.

3. The learned counsel for the petitioner would submit that the petitioner was arrested by the respondent police for the alleged offence under Sections 120(B) r/w 419, 420, 409, 467, 468, 471 of IPC and Sections 13(1)(a) r/w 13(1)(d) & 13(2) of Prevention of Corruption Act, 1988. He would further submit that as regard this petitioner, the respondent police raised allegation that the documents recovered by the investigation officer, would show that the petitioner also participated in the alleged occurrence. The petitioner was not at all involved in the offences as alleged by the

prosecution and the name of the petitioner was also not found in the FIR and he has been falsely implicated in this case. According to him, based on the confession given by the other accused, the present petitioner was arrested and remanded to judicial custody. Hence, it cannot be stated that the petitioner is directly involved in the alleged occurrence. The petitioner is ready to abide with the conditions to be imposed by this Court and also willing to furnish sureties, if he is released on bail. According to the learned counsel, the petitioner is in judicial custody from 09.08.2021 onwards and hence, he prays for grant of bail to the petitioner.

4. The learned Special Public Prosecutor (CBI Cases) appearing for the respondent police by filing counter raised objections stating that during the relevant point of time, this petitioner along with the Manager of Indian Bank, Koyambedu branch and the staff working in Chennai Port Trust and other accused, had joined together and created bogus account in the name of Chennai Port Trust and also prepared bogus Term Deposits. Later, after showing the term deposits, they pre-closed the accounts and sent the same to various persons who are not connected with Chennai Port Trust. The petitioner got acquainted with A8-Vijay Herald and came to know through him that one trust in Chennai is having Fixed Deposit and which got matured. Further, A8-Vijay Herald told the petitioner regarding the transaction of Rs.49,95,000/- carried out in the account of his brother Jerald Nirmal and he further told to the petitioner that the said amount is a legal one and no issues will raise. Thereafter, after knowing the consequences, the petitioner herein agreed to participate in the alleged conspiracy and referred six numbers of bank accounts and also obtained three numbers of bank account, to which the portion of the pre-closed fixed deposit amounts were forwarded. It is his further submission that in the alleged occurrence, the petitioner and others misappropriated fund to the tune of Rs.45 Crores and due to the same, the Chennai Port Trust suffered a huge loss. Accordingly, he prayed for dismissal of this petition.

5. Considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. Though the petitioner has stated in his petition as he was innocent and falsely implicated, the respondent herein has specifically referred about the incriminating materials gathered from the e-mail of the petitioner, cell phone and also transactions made through nine accounts introduced by the petitioner to the accused A8-Vijay Herald.

7. It is a well settled law that for granting bail, two aspects are necessary i.e. seriousness of the charge and severity of punishment. Here it is a case, the alleged offence committed by the petitioner is a heinous offence. In the said occasion, since this

application has been filed under Section 439 of Cr.P.C., before deciding this application, it would be necessary to see the judgment of our Hon'ble Apex Court in Sunil Kumar Vs. State of Bihar and Another, reported in 2022 SCC OnLine SC 88, wherein it was observed as follows:

> "36. Grant of bail Under Section 439 of the Code of Criminal Procedure is a matter involving the exercise of judicial discretion. Judicial discretion in granting or refusing bail-as in the case of any other discretion which is vested in a court as a judicial institution-is not unstructured. The duty to record reasons is a significant safeguard which ensures that the discretion which is entrusted to the court is exercised in a judicious manner. The recording of reasons in a judicial order ensures that the thought process underlying the order is subject to scrutiny and that it meets objective standards of reason and justice."

8. Now bearing in mind the above said observation and also on going through the facts of the case, here it is a case, a number of persons including the petitioner have participated and swindled money to the tune of Rs.45 Crores. The evidence collected now would show a prima facie case against the petitioner and it is the specific submission of the respondent that after filing two preliminary final reports, the investigation has been continued for recovering the remaining misappropriated amount.

9. Therefore, in the above said circumstances, if these type of petitioners are released on bail, they may try to tamper the witness and hamper the investigation. Accordingly, considering the seriousness of the offence committed by this petitioner, this Court is not inclined to grant bail and this Criminal Original Petition in Crl.O.P.No.3044 of 2022 is dismissed.

-sd/-
24/02/2022

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 OFFICER INCHARGE,
SUB JAIL, SAIDAPET, CHENNAI

2 THE INSPECTOR OF POLICE,
CBI, ACB, CHENNAI

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

CC to M/S.S.MADHUSUDANAN Advocate on payment of necessary charges

CRL OP.3044/2022

Date :24/02/2022

RVR 28/02/2022