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.1317 of 2022

N.GANESH @ GANESH NATARAJAN [PETITIONER / ACCUSED]

Vs

STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
CBI/ACB, CHENNAI
(RC 032 2020 A 0006)

For Petitioner : M/S.KAMALA KANNAN, Advocate for
M/S M.PALANIVEL Advocate

For Respondent : M/S.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 offences under Sections 120(B), 419, 420, 409, 467, 468, 471 of IPC read with Section 13(2) and 3(1)a 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/A4 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 without any base or grounds and that he has been suffering incarceration for more than 5 months from 09.08.2021. Hence, he would pray for grant of bail to the petitioner.

4. The learned Special Public Prosecutor for CBI filed counter and submitted that the investigation revealed through the oral and documentary evidences that as per the instruction of A1/V.Sudalaimuthu, the petitioner had visited Indian Bank, Koyambedu Branch and opened a fake current account in the name of Chennai Port Trust-General Insurance by submitting the fake credentials on 10.03.2020. Further, it is revealed the petitioner had conspired with other accused and impersonated as Deputy Director of Chennai Port Trust and signed all the documents such as (i) Letter dated 10.03.2020 issued in the letter head with name as "Port of Chennai" authorizing Shri.Ganesh Natarajan, D.D.F., Chennai Port Trust to open Current Account in the name of "Chennai Port Trust" (ii). Copy of Board Resolution CPT/2020/0113 dated 06.03.2020 & (iii) Copy of ID Card No.POC8621 of Shri.Ganesh Natarajan, which were given by the other accused persons. Further as per the direction of the said Sudalaimuthu, the petitioner had signed in the blank cheque leaves and the forged letters, which were in the purported letter head of Port of Chennai had used to transfer the fund from the purported current account to the various accounts, referred by the other accused persons. Investigation further revealed that the said cheques and forged letters were given to one V.Manimozhi/A2 through the accused persons A.Arun/A6 and J.Selvakumar/A5 for transferring/ withdrawing the fund from the purported current account in a fraudulent way. The learned Special Public Prosecutor for CBI would further submit that during the course of investigation, the petitioner himself admitted that during the year 2017, on the direction of A1/V.Sudalaimuthu, the petitioner had opened a current account in the name of M/s.Mercury Fish Net with Bank of India, Tuticorin Branch, in order to swindle the money of Tuticorin Port Trust and the same was ended in vain. Further, the petitioner is having a criminal case with Mangalam Police Station, Tiruppur District Vide FIR No.300 of 2012 for the offence under Sections 25(1)(b) of Arms Act and the case is pending trial before the learned Judicial Magistrate No.IV, Tiruppur. 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. Hence, he would vehemently oppose for grant of bail to the petitioner.

5. 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.

6. 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 SUPERINTENDENT,
PUZHAL CENTRAL PRISON,
CHENNAI.

2 THE INSPECTOR OF POLICE,
CBI/ACB, CHENNAI.

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

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

CRL OP.1317/2022

Date :31/01/2022

RW 15/02/2022