



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2022

CORAM:

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

Crl.O.P.No.1563 of 2022

K.Gowrishankar

...Petitioner/A3

Vs.

State rep. by
The Inspector of Police,
EDF-II, CCB-II,
Veppery, Chennai.
(Crime No. 50 of 2020)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail, in Crime No. 50 of 2020 on the file of the Respondent police.

For Petitioner : M/s.S.Nagarajan

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 10.12.2021 for the offences under Sections 406, 420, 34 & 109 of IPC, in Crime No. 50 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is the 2nd accused was doing construction work in the name of A1 company and the petitioner was working as Manager and they were constructing independent houses. The defacto complainant approached the 2nd accused to construct the house and she was informed that the 4th and 5th accused was a land owner and they have entered into a joint venture agreement. When the defacto complainant demanded the documents pertaining to the property, she was asked by the 2nd accused to pay Rs.1 lakh to get all the copy of documents. Thereafter, the defacto complainant paid a sum of Rs.24,74,550/- on various dates through bank account and a sale



agreement was entered between the defacto complainant and 4th and 5th accused and construction agreement was entered between the defacto complainant and 1st accused. Thereafter, the defacto complainant availed loan from the 5th accused. Finally, the accused cheated the defacto complainant. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is no way connected with the alleged offence. He was working as Manager in the A1 company from 01.03.2016 and he resigned his job on 22.01.2019 and that he was relieved on 22.02.2019. To that effect he also enclosed the relieving order issued by the A1 company. He would further submit that even though the complaint was alleged to have been lodged during on 12.01.2019, the FIR was registered on 20.04.2020 and the petitioner is no way connected with the allegations leveled in the FIR and that the petitioner has been suffering incarceration for more than 45 days from 10.12.2021. He would further submit that A2 has already been granted bail by the lower Court. Hence, he would pray for grant of bail to the petitioner.

4.The learned Government Advocate appearing for the respondent would raise objection stating that in the year 2018 itself the defacto complainant entered into agreement with A1 company for constructing of house and at that time, the petitioner was also in the A1 company.

5. On seeing the fact that the petitioner was only worked as a Manager in A1 company and he has already been relieved from the said company in the year 2019 itself and therefore, this Court is of the opinion that even if he is released on bail, he would not abscond and tamper the evidence. Further, the A2 has already been released on bail and the investigation is almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, 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 execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Learned Judicial Magistrate Court No.1, Tambaram, 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;

(c) 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;



(d) the petitioner shall report before the respondent police on every Wednesday at 10.30 a.m. until further orders.

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

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

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

(h) 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];

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

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

-sd/-

28/01/2022

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 JUDICIAL MAGISTRATE,
NO.I, TAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.



4 THE INSPECTOR OF POLICE,
EDF-III, CCB-II,
VEPPERY, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.S.NAGARAJAN Advocate on payment of necessary charges
SR.NO.1356

CRL OP.1563/2022

Date :28/01/2022

RW 31/01/2022