



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

CORAM:

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

Cr1.O.P.No.1463 of 2022 and
Cr1.M.P.No.800 of 2022

S.Kandavadivelu

...Petitioner

Vs.

State rep. by
The Inspector of Police,
Central Crime Branch (CCB-II).
Chennai.
(Crime No. 60 of 2021)

... 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. 60 of 2021 pending investigation on the file of the Respondent police.

For Petitioner : M/s.K.G.Senthilkumar

For Respondent : Mr.A.Gokulakrishnan
(Additional Public Prosecutor)

For Intervenor : Mr.C.S.K.Sathish

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 17.12.2021 for the offences under Sections 408, 467, 468, 420 & 477-A of IPC in Crime No. 60 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant who is the Managing Direction of M/s.Ram Tech is that the petitioner along with other accused misappropriated a sum of Rs.1,21,28,726/-. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case as A2. He would further submit that the 1st accused used to produce the accounts and statement and on verification of the statements of accounts submitted after approved by the Board of Directors, the petitioner used to prepare the payment of taxes and the petitioner role is very limited and that



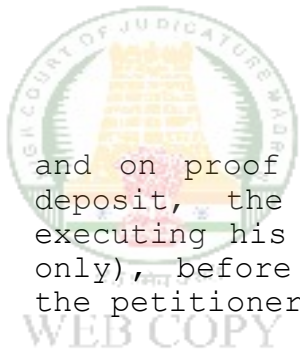
the petitioner has no duty bound to visit the company to look after the day to day financial transactions on the books of accounts. Even as per the 2nd complaint, the allegation against the petitioner is that he had not verified the accounts properly and that there is no criminality made out against the petitioner and that the petitioner has been suffering incarceration for 40 days from 17.12.2021. He would further submit without prejudice his right that the petitioner in order to show his bonafide is ready to deposit the original title deed of the property stands in the name of his wife along with encumbrance certificate along with affidavit filed by her wife and he is also ready to deposit a sum of Rs.35 lakhs to the credit of crime number and would pray for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would raise strong objection that the petitioner along with other accused misappropriated a sum of Rs.1,21,28,726/- from the defacto complainant's company.

5. The learned Counsel for the intervenor would submit that the petitioner is the Statutory Auditor in the defacto complainant's company and one Sathya/A1 was working as Accountant and she was responsible for payment of Goods and Service Tax (GST) and other statutory payment to the appropriate Governments. While so, between 2014 to 2020, they both conspired together and dishonestly created fake account entries and misappropriated a sum of Rs.2,29,54,081/- and that the petitioner alone has illegally gained about Rs.1.39 Crores. However, he would submit that he has no objection if the petitioner is ready to deposit the original documents of the property and cash of Rs.35 lakhs to the credit of crime number. He would further submit that the defacto complainant may be permitted to withdraw the deposit amount of Rs.35 lakhs and that the defacto complainant is ready to file an affidavit to return the said amount to the petitioner if he succeeds in the trial.

6. Considering the above facts and circumstances of the case and the submissions of the learned Counsel for the petitioner and the fact that 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 directed to deposit the original title deed of the property in Document No.4932 of 2006 to the credit of Crime No.60 of 2021, stands in the name of his wife along with encumbrance certificate, Aadhar proof and affidavit filed by his wife that she has no objection in depositing the original title deed to the credit of crime number and she would not claim any right over the same till disposal of the case. Further, the petitioner is also directed to deposit a sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs Only) to the credit of Crime No.60 of 2021



and on proof of deposit of the above said particulars and on such deposit, 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 No.I, Kanchipuram, 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 defacto complainant is permitted to withdraw the deposit amount of Rs.35,00,000/- (Rupees Thirty Five Lakhs Only) on filing of undertaking affidavit that he would return the amount to the petitioner if the petitioner succeeds in the trial.

(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.



6. With the above directions, this Criminal Original Petition is ordered. Consequently, connected miscellaneous petition is closed.

WEB COPY

-sd/-

27/01/2022

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, KANCHIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH (CCB-II),
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
SUB JAIL, KANCHIPURAM.

+1CC to M/S.K.G.SENTHILKUMAR Advocate on payment of necessary
charges SR.No.1254

+1CC to M/S. C.S.K.SATHISH Advocate on payment of necessary
charges SR.No.1267

CRL OP.1463/2022

AND

CRL.MP.800/2022

Date :27/01/2022

CSK 28/01/2022