IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

CORAM:

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

Crl.O.P.No.1619 of 2022

Bala @ Bala Aaroon ...Petitioner

Vs.

State rep. by
The Inspector of Police,
S-11, Tambaram Police Station,
Chennai, Kancheepuram district
(Crime No. 957 of 2019) ... 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. 957 of 2019 pending investigation on the file of the Respondent police.

For Petitioner : M/s.S.Nambirajan

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

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 27.12.2021 for the offences under Sections 406 and 420 of IPC in Crime No. 957 of 2019, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defcto complainant is having a Savings Account in SBI, Tambaram Branch and he wanted to invest a sum of Rs.7 lakhs in SBI's various investment plans. Therefore, on 08.02.2017, he went to Tambaram Branch and met one Sudha who explained the defacto complainant about various investment schemes and having convinced, the defacto complainant expressed his willingness to invest a sum of Rs.7 lakhs. Immediately, the said Sudha contacted the petitioner who is the Sales Manager of SBI through mobile phone and as per the instructions of the petitioner, the defacto complainant handed over a signed Indian overseas Bank cheque to Sudha for a sum of Rs.7 lakhs without filling the beneficiary's name. Later, on 10.10.2017, the defacto complainant received a mail from the petitioner stating that the amount has been invested in CGB (NHAI). Subsequently, on 14.02.2018, a sum of Rs.42,000/- was credit to his savings account and he received a mail

from the petitioner stating that the said amount is towards interest of his deposit amount of Rs.7 lakhs @ 6% p.a. and therefore, the defacto complainant was on the belief that his investment is safe and secure with SBI. Thereafter, the defacto complainant not received the 2nd year interest and later, he came to know through the said Sudha that the petitioner cheated the defacto complainant and when he checked his bank statement, he found that the said cheque dated 10.02.2017 was cleared in the name of the petitioner. 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 not received any amount from the defacto complainant and he has been falsely implicated in this case and that he has been suffering incarceration for 30 days from 27.12.2021. Hence, he would pray for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would raise objection stating that there are totally 2 accused in this case and the petitioner is arrayed as A1. He would further submit that the accused under the guise of investing the defacto complainant's money in SBI investment schemes, misappropriated the same shared between them but admits that the investigation is almost completed.

5. Considering 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 a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the credit of Crime No.957 of 2019 and on proof of 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-I, Tambaram, Chennai, 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 Saturday at 10.30 a.m. until further orders.

(e) the defacto complainant is permitted to withdraw the deposit amount of Rs.2,00,000/- (Rupees Two Lakhs Only) on proper identification and acknowledgement.

(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.

-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, TAMBARAM, CHENNAI

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU(FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
S-11, TAMBARAM POLICE STATION,
CHENNAI
KANCHEEPURAM DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE JAILER, SUB JAIL,
CHENGALPATTU

CC to M/S.S.NAMBIRAJAN Advocate on payment of necessary charges
Sr.1221

CRL OP.1619/2022

Date :27/01/2022

RVR 28/01/2022