



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2022

CORAM:

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

Cr1.O.P.No.3037 of 2022

N.Krishnappa

..Petitioner

Vs.

State Rep by
The Inspector of Police,
CCB 1/PS Chennai,
CCB District,
EDF - II, Team - 4,
Chennai Crime Branch,
Vepery, Chennai.
(Crime No.289 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 C.C.No.3129 of 2020 pending on the file of the learned Metropolitan Magistrate, CCB, CB-CID, Court at Egmore, Chennai.

For Petitioner : Mr.P.K.Ganesh

For Respondent : Mr.L.Baskaran
Additional Public Prosecutor

For Intervenor : Mr. Prabhudoss

ORDER

The petitioner who was arrested and remanded to judicial custody on 21.12.2021 for the offence under Sections 409, 420, 465, 468, 120(b) r/w 34 of IPC in Crime No.289 of 2019, on the file of the respondent police seeks bail.

2. The case of the prosecution is that the defacto complainant's mother appointed the petitioner as Power Agent and they entered into a Memorandum of Agreement for a sale consideration of Rs.1.5 Crores. At the time of MoU, the petitioner gave Rs.20 lakhs and for the remaining amount of Rs.85 lakhs, he gave two cheques. Later, the said cheque was returned for want of funds. Later, he sold the property to the other accused for a sale consideration of Rs.1.5 Crores on 22.11.2017. However, he did not pay the balance amount and thereby, cheated her. Hence, the complaint.



3. The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the charge sheet has been filed and the trial has commenced and he is ready to abide conditions imposed by this Court. He further submitted that the petitioner has been suffering incarceration for more than 45 days from 21.12.2021. Charge sheet also filed. Hence, he would pray for grant of bail.

4. The learned Additional Public Prosecutor would raise strong objection stating that the petitioner was earlier granted bail by the lower Court with a condition to deposit a sum of Rs.30 lakhs to the credit of crime number within a period of 6 weeks. But the petitioner did not comply with the condition and hence, the bail was cancelled and subsequently, the petitioner was arrested. He would further submit that the value of the subject property is more than Rs.1.5 Crores and it has been sold only for a sum of Rs.20 lakhs and a sum of Rs.85 lakhs has been cheated.

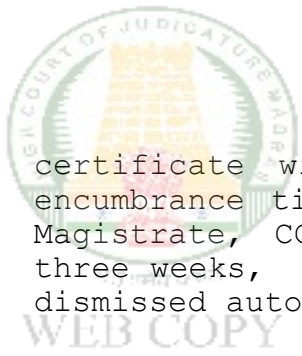
5. The learned counsel for the intervenor raised objection stating that the defacto complainant entered into the memorandum of agreement with the petitioner for a sale consideration of Rs. 1.5 crores, for which, the petitioner paid a sum of Rs.20 lakhs and for remaining amount he issued a cheque for a sum of Rs.85 lakhs to the defacto complainant's mother and the same was dishonoured. Further, the learned counsel for the intervenor submits that the petitioner is aged about 65 years and he prayed to withdraw the amount.

6. However, learned counsel for the petitioner raised objection stating that the case is civil in nature and hence, with regard to withdrawal of the amount, the intervenor may be directed to approach the trial Court as per the manner known to law.

7. On seeing the above facts, it is clear that the investigation almost completed and charge sheet has also been filed and the trial has also been commenced. This Court has already granted bail to the petitioner with a direction to pay a sum of Rs.30,00,000/- to the crime number. But he has failed to comply with the conditions. Thereby, he was arrested and remanded to the Judicial custody from 21.12.2021.

8. Considering the fact that all the transactions were of the year 2017, this Court is inclined to grant bail subject to the following conditions:

(a) the petitioner shall deposit a sum of Rs.20,00,000/- out of which, fifteen lakhs shall be deposited in cash and for remaining five lakhs, he shall deposit title deed stands in his name or his father's name as he agreed with encumbrance certificate along with legal heir



certificate with affidavit of undertaking that not to create any encumbrance till disposal of issues, before the learned Metropolitan Magistrate, CCB, CB-CID Court, Egmore, Chennai, within a period of three weeks, failing which the bail granted by this Court shall stand dismissed automatically;

(b) the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Metropolitan Magistrate, CCB, CB-CID Court, Egmore, Chennai

(c) the sureties shall affix their photographs and left thumb impression in the surety bond and the 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 daily at 10.30 a.m., for a period of two months and thereafter as and when required for interrogation;

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

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

(g) on breach of any of the aforesaid conditions, the learned 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]; and;

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

-sd/-
11/02/2022

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 METROPOLITAN MAGISTRATE,
CCB, CB-CID COURT, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI (FOR INFORMATION).

3 THE INSPECTOR OF POLICE,
CCB 1/PS CHENNAI, CCB DISTRICT.
EDFII, TEAM 4, CHENNAI.
CRIME BRANCH, VEPERY, CHENNAI.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

+1 CC to M/S. P.K.GANESH Advocate on payment of necessary
charges SR.NO.2246

+1 CC to M/S. M.ANANDARAJ Advocate on payment of necessary
charges SR.NO.2316

CRL OP.3037/2022

Date :11/02/2022

INBA~14/02/2022