IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :04.03.2022

Pronounced on :11.03.2022

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.2698 of 2022

M.Mohammed Naseruddin .. Petitioner

/versus/

State rep.by
The Inspector of Police,
Central Crime Branch,
(EDF Team II),
Vepery, Chennai 600 007,
Crime No.148 of 2021. .. Respondent

Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of arrest in Crime No.148 of 2021 on the file of the respondent.

For Petitioner :MrK.Kannan

For Intervenor :M/s Sujatha

For Respondent :Mr.S.Santhosh, GA(Crl.Side)

ORDER

The petitioner herein apprehending arrest in Cr.No.148 of 2021 on the file of the respondent police for offences under Sections 406,420 r/w 34 of IPC is before this Court seeking anticipatory bail.

2.The First Information Report upon which Crime No.148/2021 was registered and taken up for investigation reveals that, the One Mohammed, Manager of M/s V-3 Elite Forte Limited, Chennai, entered into an agreement with the defacto complainant for purchase of 10180 kgs of high quality cashew worth about Rs.42,75,600/- and paid advance of Rs.5,00,000/- and promised to pay the balance the day next on delivery. Believing his words, the defacto complainant delivered cashew nuts worth Rs.42,75,600/-. The said company also gave cheque for Rs.42,75,600/-. However the cheque has bounced on presentation. When he enquired the said Mohammed, he did not get proper reply. So, he went to the petitioner premises but he was not there. So, he went to the warehouse at Redhills where the goods was stocked. To his surprise , he was informed that the goods were removed .

3.The petitioner claims that he is the Managing Director of the company by name “V-3 Elite Forte Private Limited” at Chennai. His company is dealing with cashew nuts and other products. One Mohammed is the Manager of the Company. Mrs.Sofia is the Purchase Manager of his company. It was Mrs.Sofia, who placed order for purchase of 1180 kg of cashewnuts from the defacto complainant, who is the Proprietor of M/s Anitha Cashew and paid advance of Rs.5 lakhs on 07/11/2020. The defacto complainant delivered the goods on 08/11/2020. The petitioner company inturn sold the entire cashew nuts to M/s Green Land Trading, Palakkad for Rs.79,46,295/- on the next day i.e 09/11/2020 anticipating they will pay the value immediately on receipt of the goods. But the said Green Land Trading Company at Kerala failed to pay for the cashew nuts supplied. This fact was intimated to the defacto complainant. Instead of waiting for the payment from M/sGreen Land Trading, the defacto complainant has rushed to the police alleging cheating.

4.It is also claimed that the petitioner is making bonafide steps to recover money from M/s Green Land Trading and also lodged an online complaint on 15/12/2020 to the Commissioner of Police against the said M/s Green Land Trading and the complaint is pending at Commissioner Office for enquiry. The complaint is against the Manager and the Purchase Manager of the Company. However, the petitioner being the Managing Director of the Company apprehends arrest. The petitioner has no intention to cheat the defacto complainant. He is also a victim at the hands of M/s Green Land Tradings, Palakkad, Kerala and his complaint against M/s Green Land Trading is pending. Being an innocent person, he must be protected from arrest.

5.Whereas, the defacto complainant, who has filed intervening petition contended that, the petitioner with an intention to cheat from the inception had initially advanced Rs.5,00,000/- to gain confidence and after taking delivery of cashew nuts worth about Rs.42,75,600/- gave cheque without sufficient fund and also gone absconding, after removing the entire goods. The petitioner had floated a shell company for the sole purpose of cheating.

6.The learned Government Advocate (Crl.Side) produced the case diary and contended that the investigation so far conducted reveals that the petitioner has committed the crime with intention of cheating. He is not a regular trader and his bank account does not show sufficient fund at any point of time to transact in lakhs.

7.Heard the counsels and perused the CD file.

8.The bank account of the petitioner collected by the Investigating Officer reveals that he never had bank balance to honour his cheque dated 08/11/2020 drawn at Axis Bank in favour of the defacto complainant for Rs.42,75,600/-.On the date of cheque, the balance in his company account was only Rs.6105.60. He has affixed his signature differently so that the cheque returned on account of signature differs. After taking delivery of cashew nuts worth about Rs.47 lakhs, all the accused have absconded and the trail of goods not known.

9.The petitioner herein pleads that he is also an victim of the crime and the person at Kerala to whom he supplied had cheated him. This contention is found to be an afterthought and contrary to the purchase order placed by the petitioner company. In the said purchase order, it is specifically stated that the payment will be on delivery. The petitioner herein admits that cashew nuts were delivered at Chennai on 07/11/2020 by the defacto complainant and he in turn sold it the cashew nuts to M/s Green Land Trading, Palakkad for Rs.79,46,295/ - It is also an admitted case that the petitioner gave cheque for Rs 42,75,600/- on 08/11/2020 for supply of the goods.

10.If really the parties have agreed to collect the money, after the petitioner receives the money from his buyer, then there is no necessity to give cheque in favour of the defacto complainant for Rs.42,75,600/- While issuing this cheque or thereafter, the petitioner has not ensured adequate balance to honour the cheque. He has also not signed his original signature found in the specimen kept in the Bank.

11.The above conduct of the petitioner indicates that this is not a civil transaction but a calculated scheme of cheating. The records clearly discloses the petitioner's intention to deceive the defacto complainant and the said intention to deceive has been conceived at the inception itself. In addition, from the perusal of the CD file , this Court also finds that, there are few other suppliers also, who had given complaint against this petitioner alleging similar MoP.

12.For the reasons stated above, this Court dismiss the Anticipatory Bail Petition as devoid of reasoning and the nature of the crime requires custodial interrogation of the petitioner.

13.Accordingly, this Criminal Original Petition is dismissed.

-sd/-
11/03/2022

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 INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
(EDF TEAM II), VEPERY, CHENNAI - 600 007.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.2698/2022

Date :11/03/2022

CSK 17/03/2022