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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.3905 of 2022

Nixon

...Petitioner /Accused

versus

The State Represented By
Inspector of Police
B-3, Fort Police Station,
Chennai.
(Crime No.10 of 2022)

...Respondent /Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.10 of 2022 on the file of the respondent police.

For Petitioner : Mr.Swami Subramanian
for Mr.M.Vinoth

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 23.01.2022 for the offences punishable under **Sections 406 and 420 of IPC** in Crime No.10 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on fake promise of getting job in various posts in State Government, the petitioner herein received Rs.18,05,000/- and failed to secure them a job. In the meanwhile, the petitioner returned a sum of Rs.4,00,000/- to the *de facto* complainant and balance sum of Rs.14,05,000/- is yet to be repaid by him. Hence, the complaint.



3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that, now, the petitioner is willing to deposit the amount in two installments, without prejudice to the averments raised against him in the First Information Report. It is his specific submission that the petitioner is in judicial custody from 23.01.2022 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she admits that, a portion of the investigation has been completed.

5. Considered the submissions made by the learned counsel appearing on either side. Here, it is a case, during the relevant point of time, after making a false promise that he would arrange for job, the petitioner received the following amounts;

Sl. No.	Date	Name	Amount
1.	12.02.2018	Mr.Silambarasan	Rs.4,00,000/-
2.	20.12.2018	Mr.Sahadevan	Rs.4,00,000/-
3.	01.01.2019	Mr.Ilamurugan	Rs.3,30,000/-
4.	21.01.2019	Mrs.Jayalakshmi	Rs.2,50,000/-
5.		Mr.Dhasaradhan	Rs.75,000/-
6.	23.01.2019	Mrs.Kanakapriya	Rs.3,00,000/-
7.		Mr.Rajamurugababu	Rs.4,50,000/-

6. From the above, before registering the case, a sum of Rs.4,00,000/- was returned to the *de facto* complainant viz. Rajamurugababu and balance sum of Rs.50,000/- alone has to be returned to him. In this regard, the petitioner filed an undertaking affidavit wherein he is ready to deposit Rs.10,00,000/- [Rupees Ten Lakhs] towards the repayment of amount collected from the above referred persons and in respect of the remaining amount of Rs.4,05,000/-, the learned counsel for the petitioner made submission that after enlarging the petitioner on bail, he is ready to deposit the said amount, within a period of one month from the date of enlargement on bail.

7. Therefore, taking into consideration of the above said aspects with the facts of the present case, being the reason that the petitioner himself voluntarily ready to return the alleged misappropriated amount and by considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to certain conditions.



8. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

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(a) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned VII Metropolitan Magistrate, George Town;

(b) 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;

(c) the petitioner should deposit Rs.10,00,000/- [Rupees Ten Lakhs] immediately, to the credit of Crime No.10 of 2022 before the learned VII Metropolitan Magistrate, George Town; and within 30 days from the date of execution of bond, he should deposit the remaining Rs.4,05,000/- [Rupees Four Lakhs Five Thousand only] and afterwards, the trial court is directed to return those amount of Rs.14,05,000/- to the persons, who are all alleged to be cheated by the petitioner as stated in the affidavit and if the petitioner is not deposited Rs.4,05,000/- as agreed within a month, this order is suo motu cancelled as the bail petition is dismissed;

(d) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

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

(f) 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];



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

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-sd/-
21/02/2022

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,
NO.VII, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
B-3, FORT POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

+1 CC to M/S. M.VINOTH Advocate on payment of necessary charges
SR.NO.2649

CRL OP.3905/2022

Date :21/02/2022

TA-22/02/2022