IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :05.04.2022

Pronounced on :07.04.2022

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.7178 of 2022

AND

CRL.MP.NO.4583 of 2022

Alex @ Paul Francis Xavier .. Petitioner

/versus/

State rep.by
The Inspector of Police,
Central Crime Branch-II,
EDF-III,
Chennai District.
(Crime No.94 of 2021) .. Respondent

VIVEKRAMSISARIA [PETITIONER/DEFACTO COMPLAINANT
Ordered as per order of this court
Dated 05/04/2022 made in CRL.MP.NO.4583/2022]

Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest pending investigation in Crime No.94 of 2021 on the file of the Inspector of Police, Central Crime Branch-II, EDF-III, Chennai District.

For Petitioner : Mr.R.Rajan

For Intervenor : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.S.Santhosh,
Govt. Advocate (crl.side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 408, 109, 34 of IPC altered into Sections 420, 467, 468, 471, 109 of IPC in Crime No.94 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the defacto complainant Mr.Vivek Ramsisaria is that he is running a business in the name of M/s Calcutta Cosmo Packers and dealing with polymers products. One Mr.Vishal D Bothra, who was working under him as Marketing Manager by opening a bank account in the name of M/s Ashirvad Enterprises had misled the customers to deposit the invoice amount into the account of M/s Ashirvad Enterprises, instead of M/s Calcutta Cosmo Packers, which has supplied the goods. By adopting this modus, totally a sum of Rs.3.04 crores of money had been siphoned. This misappropriation came to light, when the accounts and stocks were verified. The said Mr.Vishal D Bothra, on enquiry admitted his guilt and requested the defacto complainant to give time to return the money, which was misappropriated. The account in the name of M/s Ashirvad Enterprises was opened by Alex @ Paul Francis Xavier, who is husband of Vishal D Bothra's sister. The money deposited in the M/s Ashirvad Enterprises, by fraud, has been withdrawn by Alex @ Paul Francis Xavier.

3.The investigation reveals that Mr.Vishal D Bothra (A-1) as Marketing Manager got orders from the customers and directed the ware-house in charge to supply goods. After supply of goods, he had contacted the buyers and collected money in cash (or) by bank transfer in the account of M/s Ashirvad Enterprises. M/s Ashirvad Enterprises is a non-existing Firm. No actual trade of purchase and sale carried by this Firm, except receipt of money from the customers of the defacto complainant as against the goods supplied from the warehouse of the defacto complainant.

4.The petitioner herein is the person, who opened the Bank Account and maintaining it. The prosecution has arrested A-1 and confession statement of A-1 implicates this petitioner as an accused. The money alleged to have siphoned is with this petitioner and he is absconding. Unless this petitioner is secured, the trail of the money siphoned cannot be traced.

5.Though the learned counsel for the petitioner states that the petitioner had his own independent business and nothing to do with the alleged crime, the evidence so far collected indicates that the address for the said M/s Ashirvad Enterprises is the house of the first Accused. There is no evidence to show notable business of real buying and selling produced by the accused persons. Further, the information produced by the respondent police reveals that the payment received by this petitioner is for the goods delivered from the warehouse of the defacto complainant. Thus, there is prima facie material to substantiate the complaint that the payment for the goods sold has been diverted into the account of M/s Ashirvad Enterprises and the petitioner herein, who has not only aided and abetted the crime, also holding the money so siphoned. In the said facts and circumstances, the custodial interrogation of the petitioner is required. Hence, this Criminal Original Petition for anticipatory bail is dismissed.

-sd/-
07/04/2022

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-II,
EDF-III, CHENNAI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.R.RAJAN Advocate on payment of necessary charges
SR.No.5484

CRL OP.7178/2022
AND
CRL.MP.4583/2022

Date :07/04/2022

CSK 13/04/2022