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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :13.06.2022

Pronounced on : 20.06.2022

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.9408 of 2022

A.Arun

.. Petitioner

/versus/

The Assistant Director,
Directorate of Enforcement, GOI,
Ministry of Finance, Dept., of Revenue
2nd and 3rd Floor, C Block Murugesu
Naiker Complex, 84 Greaves Road,
Thousand Lights, Chennai-6.
(ECIR No.CEZO-I/40/2020 of 2020)

..Respondent

Prayer: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation before the Investigating Agency in ECIR No.CEZO-1/40/2020 of 2020.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.P.Sidharthan,
Spl.Public Prosecutor for
(E.D.Cases)

O R D E R

The petitioner herein was arrested on 08.03.2022 by the respondent police for offence under Sections 3 and 4 of the Prevention Money Laundering Act (PMLA 2002).

2.Earlier when the petitioner sought for bail, this Court dismissed the petition on 28.03.2022 for the reason that the petitioner has played a very pivotal role in layering proceeds of crime derived by the commission of the scheduled offences and the investigation being a nascent stage, release of the accused may help him to tamper and destroy the evidence.



3.The bail petition is now revived again stating that the petitioner suffers an acute injury to C5-C6 vertebral levels and undergone treatment and requires further treatment for his ailment.

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4. As far as the investigation in this case already completed and the property suspected to have been purchased out of crime proceeds already seized. Since CBI, which investigating the predicate offence, has completed its investigation and filed the final report, the petitioner may be released on bail on any condition, which the petitioner is ready to abide.

5.The learned Special Public Prosecutor (E.D Cases) submitted that the petitioner is involved in fraud of cheating about Rs.45 crores and the evidences were collected incriminating against the petitioner herein in the involvement of alleged fraud and concealment of proceeds of crime. Further, he submitted that in view of the twin condition imposed under Section 45 of the Prevention of Money Laundering Act (PMLA 2002), the petitioner is not entitled for bail.

6. Per contra, the learned counsel appearing for the petitioner submitted that the Principal Sessions Court, Chennai has already granted bail to the co-accused by name, Madhan on 11.05.2022. The filing of final report is one of the change of circumstances to entertain the bail petition. As far as Section 45 of the Prevention of Money Laundering Act (PMLA 2002), the subject matter is under challenge before the Hon'ble Supreme Court. The personal liberty of the petitioner herein may be considered and bail may be granted. The learned counsel appearing for the petitioner further submitted that the predicate offence is the subject matter of the investigation by the CBI, the petitioner in that case has co-operated with the investigation and had abide by the anticipatory bail condition imposed by this Court. Similarly, in this case also, the petitioner will abide by any condition imposed by this Court.

7. When this matter was posted 'for orders' today in CrI.O.P.No.9408 of 2022, the learned Special Public Prosecutor before the pronouncement of the order made a submission that one of the accused by name S.Madhan to whom the trial Court had granted bail based on the submission that his marriage is fixed on 09.06.2022 and his presence is necessary to perform the marriage, the anticipatory bail was granted. Later, on verification, it is found that the said submission is false and the prosecution is taking necessary steps to cancel his bail.

7. Taking note of the said fact, this Court finds that the alleged change in circumstances namely granting of bail to S.Madhan on 11.05.2022 cannot be a reason for this Court to reconsider the earlier order of this dismissal. Furthermore, mere challenge to Section 45 of Prevention of Money Laundering Act, 2002 before the Supreme Court



cannot be a reason for this Court to turn a nelson's eye to the twin condition imposed under that provision. For the said reason, the bail petition is dismissed.

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-sd/-
20/06/2022

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 PRINCIPAL JUDGE,
CBI COURT, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

3 THE ASSISTANT DIRECTOR, DIRECTORATE OF ENFORCEMENT,
GOI, MINISTRY OF FINANCE, DEPT., OF REVENUE
2ND AND 3RD FLOOR, C BLOCK MURUGESA
NAIKER COMPLEX, 84 GREAMS ROAD,
THOUSAND LIGHTS, CHENNAI-6.

4 THE SPECIAL PUBLIC PROSECUTOR
FOR E.D. CASES, HIGH COURT, MADRAS.

+1 CC to M/S.C.BALAJI Advocate on payment of necessary charges
SR.NO. 9684

CRL OP.9408/2022

Date :20/06/2022

RW-23/06/2022