IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.OP.No.13774 of 2022

G.Elango ..Petitioner

Vs.

The Inspector of Police,
M6 Police Station,
Jalakanda, Mariyamman Koil Street,
Manali, Chennai 600 051
crime No.4 of 2022 ..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in crime No.4 of 2022 pending investigation on the file of the respondent police.

For Petitioner : Mr.Gokula Rao.N

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody 22.04.2022 for the offence punishable under Sections 406, 420 & 506(1) of IPC in crime No.4 of 2022 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that the defacto complainant lodged a complaint before the respondent police, in which one, Maheswari/A1 introduced A2/petitioner herein, who is the loan agent and A3, who is the wife of A2 and A4 to the defacto complainant to obtain loan. Thereafter, on 26.02.2017, A2 came to the defacto complainant's house along with camera, wherein he took photograph of the defacto complainant and collected the xerox copy of the aadhar card, bank passbook, bank card. While so, the accused persons demanded Rs.15,000/- for acquiring loan amount of Rs.10,00,000/-. Further, the petitioner along with other accused colluded together and by using the aadhar card and other documents of the defacto complainant forgedly opened a company in the name of “Sukumar

Traders” situated at Prakash Nagar, Chennai. Based on the said documents, they had also applied for GST Registration and obtained a GST No.33BIFPV6957DIZY. Further, the petitioner/A2 and other accused involved in trading of Tubes and Pipes, Files Rasps, Pliers (including cutting pliers), Pincers, Tweezers, Metal cutting Shears, Pipe cutters, bolt croppers, perforating punches and similar hand tools and for the same, the petitioner/A2 filed GST returns regularly from the year 2019 to 2021. Further, as per the proceedings of the sales tax, the State Tax Officer, Group-III, Inspection Unit, Intelligence-I sent the order to the defacto complainant to pay penalty of Rs.80,09,655/- to the concerned authorities. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the allegations in the complaint are baseless and false. The averments in the complaint stating that her xerox copies of ID proofs given to this petitioner dated 26.11.2017 was used by the petitioner alone with her knowledge to create a bogus company in her name, which was effectively registered on 16.03.2018 was imaginary and false. The logic of possibility of GST obtained on online in the stated manner was not possible especially without the knowledge of the complainant and without the original ID proofs. Further, the bank account for the said bogus company cannot be opened without the complainant presence and without the photo, signature/digital signatures and without verification of original ID proofs. Hence, he prays to grant bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent police submitted that the defacto complainant approached A1 for loan and this petitioner went to the house of the defacto complainant and took photograph, collected other card from the defacto complainant to arrange loan. Instead of arranging loan, they opened company in the name of 'Sukumar Traders'. Only after receiving the notice from the GST authority, the defacto complainant came to know about the transaction and in the notice it was informed that she has to pay penalty of Rs.80,09,655/- to the concerned authorities.

5. That apart, the notice received from the State Tax Officer dated 29.08.2020 reveals that “on 29.08.2020 under the Goods and Service Act, 2017 to a demand of Rs.80,09,655/- for the year 2018-2019. Up to inclusive of the date of discontinue of business and that, after deducing the total amount of the payment, already made by the complainant towards tax, the defacto complainant has to pay a sum of Rs.80,09,655/-. It shall be paid within a period of 90 days.” On receipt of the same, the defacto complainant came to know that there is the said Sukumar Traders, in which she is the proprietor. That apart, the petitioner also cheated other companies to the tune of Rs.3 crores. However, the investigation is still pending and the petitioner was arrested and remanded to judicial custody on 22.04.2022.

6. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related sureties, each for a like sum to the satisfaction of Judicial Magistrate at Thiruvottiyur and on further conditions that:

[a] 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.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. and 05.30 p.m. until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
24/06/2022

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 JUDICIAL MAGISTRATE,
THIRUVOTTIYUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
M6, POLICE STATION, JALAKANDA,
MARIYAMMAN KOIL STREET, MANALI,
CHENNAI 600051.

4 THE OFFICER INCHARGE,
SUB JAIL, PONNERI, TIRUVALLUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2CC to GOKULA RAO.N Advocate on payment of necessary charges
SR.No.9984

CRL OP.13774/2022

Date :24/06/2022

CSK 27/06/2022