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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

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

Cr1.OP.No.13795 of 2022

V.A. Hariharan

..Petitioner

Vs.

The State Rep by:
the Inspector of Police,
B-8, Variety Hall Police Station,
Coimbatore,
(Crime No.472 of 2021)

..Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail by the respondent in Crime No.472 of 2021 on the file of the respondent Police.

For Petitioner : Mr.M. Rajasekar

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

For Intervenor : Mr.B. Kumaaraswamy

ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.05.2022 for the offence punishable under Sections 406 and 420 IPC 2006, in Crime No.472 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, the defacto complainant is engaged in the gold smith business for the past 15 years and the petitioner is carrying on business of converting the gold biscuits into jewels as per the design and demands made by his customers. On 09.10.2017 and 11.10.2017, the defacto complainant handed over 520 gms and 419.023 of gold biscuits, totalling 939.023 gms of gold biscuits to the petitioner for making gold chains and for that, he obtained promissory notes from the petitioner to the sum equivalent to the biscuits handed over to him and in the said pronotes, his brother and his wife have signed as witnesses. The petitioner assured the defacto complainant that he will handover the gold chains on 14.10.2017. It is alleged that the market value of the property



in 2017 is Rs.28,87,425/- and as on date, the same amounts to Rs.46,20,000/-. On 14.10.2017, when the defacto complainant approached the petitioner for receiving gold chains, he found the petitioner has absconded and till date, neither handed over golden chains, as assured by him, nor returned him golden biscuits. Hence he filed complaint against the petitioner and his wife.

3. The learned counsel appearing for the defacto complainant / intervenor would submit that the petitioner has received gold biscuits weighing around 950 gms amounting to the tune of Rs.28,87,425/- in the year 2017 for making golden ornaments and thereafter he failed to make ornaments as assured by him and also failed to return gold biscuits or ornaments which was received by the accused. He would further submit that now the value of the gold biscuits is more than 46 lakhs, as such, the petitioner has committed very serious offence. Therefore his custodial interrogation is very much required in this case.

4. The learned counsel appearing for the petitioner submitted that the petitioner has incurred loss in his business since the golden ornaments which were received by his other customers failed to return the money to him. Due to which, he petitioner is not able to make golden ornaments for the petitioner as assured by him. However, he undertook that the petitioner is ready and willing to pay a reasonable amount as directed by this Court without prejudice to his right of defence.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that totally there are two accused involved in this case, in which, the petitioner was arrayed as A1. Earlier, this petitioner along with A2, has filed a petition for anticipatory bail in CrI.O.P.No.23865 of 2021, wherein, this Court, by order dated 10.12.2021, has granted anticipatory bail, subsequently, on a petition filed by the defacto complainant for cancellation anticipatory bail granted to the petitioner in CrI.M.P.No.1245 of 2022, the anticipatory bail granted to the petitioner was cancelled by this Court considering the seriousness of the allegations levelled against him. Pursuant to cancellation of anticipatory bail, the petitioner himself surrendered before the respondent on 4.5.2022 and from that date onwards, he was still under incarceration.

6. Considering the above facts and circumstances of the case, and also taking note of the gravity of the offence alleged against him and also the fact that the petitioner is in judicial custody from 4.5.2022, this Court is inclined to grant bail to the petitioner.



7. 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 the Judicial Magistrate No.5, Coimbatore and on further conditions that:

[a] the petitioner shall pay a sum of Rs.20,00,000/- (Rupees twenty lakhs only) in two equal instalments directly to the defacto complainant by way of a Demand Draft drawn in favour of him. The first instalment amount being Rs.10,00,000/- (Rupees ten lakhs only) shall be paid by the petitioner on or before 12.7.2022 and the second instalment amount of Rs.10,00,000/- (Rupees ten lakhs only) shall be paid on or before 8.8.2022, failing which, the bail granted to the petitioner shall stand cancelled automatically without further reference to this Court cancelled and the respondent is at liberty to secure the petitioner and proceed against him in accordance with law. It is also made clear that the payment of this amount is adjusted towards the action to be taken by the defacto complainant as against the petitioner.

[b] 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.

[c] The petitioner shall report before the respondent police daily at 10.30 a.m. and 5.30 p.m. for a period of eight weeks, thereafter as and when required for interrogation.

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

[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 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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21/06/2022

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,
NO.5, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
B8, VARIETY HALL POLICE STATION,
COIMBATORE.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. M.RAJASEKAR Advocate on payment of necessary charges SR.No.9661

CRL OP.13795/2022

Date :21/06/2022

CSK 22/06/2022