IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM

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

Crl.OP.No.13972 of 2022

N.Murugesan ..Petitioner/A4

Vs.

The State rep.
The Inspector of Police,
Central Crime Branch I,
Police Commissioner Office,
EDF I, Team II, Veperry,
Chennai
(crime No.28 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.28 of 2022 pending investigation on the file of the respondent police.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel,
for M/s.AL.Gandhimathi

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.05.2022 for the offence punishable under Section 420 r/w Sections 34 and 120B IPC in crime No.28 of 2022 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that the defacto complainant is a neighbour of the petitioner. The defacto complainant wanted to purchase some land and the petitioner had introduced him to one, Ponnurangan, who stated that land to an extent of 3800 sq.ft was available and the said land was shown for inspection and after being satisfied with the land, the defacto complainant went to the house of the vendors and there, he saw the said Ponnurangan along with Saraswathi and Indira and they had stated that the land originally belonged to one, Ellammal and it was their ancestral property and

they quoted the price of Rs.3,00,00,000/- whereas the defacto complainant offered to purchase the same for Rs.2,50,00,000/- and sale consideration was paid in the form of cheques and cash to the above said three persons and sale agreements were entered into and possession of the property was also handed over to the defacto complainant. It is alleged that Rs.40,00,000/- was paid to the petitioner as brokerage. Further, a notice was affixed in the property by State Bank of India, Guindy Branch alleging that the property belonged to one, Navaneetham and that the said Navaneetham had mortgaged the property in favour of the bank on 25.04.2014 for a loan of Rs.20,07,21,022/- and since the said amount was not paid, the bank locked and sealed the said premises. Hence, the case.

3. The learned counsel appearing 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 even according to the case of the prosecution, the petitioner has not assured the title of the vendors and he only introduced the vendors to the purchaser / defacto complainant. Further, payment of Rs.40,00,000/- as commission is also false. Hence, he prays to grant bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that there are totally 4 accused, in which the petitioner is arrayed as A4. A1 to A3 entered into unregistered agreement for sale with the defacto complainant to sell the subject property to the tune of Rs.2,50,00,000/-. The petitioner, being a broker, received commission of Rs.40 lakhs towards the said transaction from the defacto complainant. Thereafter, the defacto complainant found that the said property was originally owned by one Navaneetham and Sai Loganathan and the said property was mortgaged with State Bank of India, Guindy Branch.

5. There are totally 4 accused and the petitioner is arrayed as fourth accused. A1 to A3 entered into unregistered agreement for sale with the defacto complainant to sell the subject property to the tune of Rs.2,50,00,000/-. The petitioner is arrayed as A4 and he received commission of Rs.40 lakhs towards the said transaction from the defacto complainant. Thereafter, the defacto complainant found that the said property was originally owned by one Navaneetham and Sai Loganathan and the said property was mortgaged with State Bank of India, Guindy Branch and availed loan by the original owner. In fact, the original owner defaulted in payment of the loan amount and as such, the banker initiated SARFAESI proceedings as against the owner of the land. Insofar as the petitioner is concerned, he received commission from the defacto complainant while entering into the agreement for sale. Admittedly, the defacto complainant did not file any suit for specific performance on the strength of the agreement for sale. After his arrest, the petitioner was taken to police custody for interrogation for one day.

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 the learned Metropolitan Magistrate for the Exclusive Trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore 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. for a period of four weeks and thereafter report before the respondent police as and when required for interrogation.

[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/-
16/06/2022

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 METROPOLITAN MAGISTRATE
FOR THE EXCLUSIVE TRIAL OF CCB CASES
(RELATING TO CHEATING CASES IN CHENNAI)
AND CBCID METRO CASES, EGMORE.

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

3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH-I,
POLICE COMMISSIONER OFFICE,
EDF I, TEAM II, VEPARRY,CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL JAIL, PUZHAL.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.AL.GANDHIMATHI Advocate on payment of necessary charges SR.No.9227

CRL OP.13972/2022

Date :16/06/2022

CSK 16/06/2022