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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.23302 of 2022

I.Kuppuraj ... Petitioner

Vs.

The State represented by,
The Deputy Superintendent of Police,
Economic Offences Wing (EOW),
Ashok Nagar,
Chennai.
(Crime No.16 of 2022) ... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to enlarge the petitioner on bail pending investigation in Crime No.16 of 2022, on the file of the Deputy Superintendent of Police, Economic Offences Wing (EOW), Ashok Nagar, Chennai.

For Petitioner : Mr.A.Ramesh
Senior Counsel
For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

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O R D E R

The petitioner, who was arrested and remanded to judicial custody on 12.08.2022, for the offences punishable under Sections 420 & 120(b) of IPC, Sections 3, 5, 21(1), 21(2), 21(3), 23 & 25 of the Banning of Unregulated Deposit Schemes Act, 2019 and Section 5 of Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, in Crime No.16 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused floated a company in the name of IFS (International Financial Services) and LNS International Financial Services Limited and by advertising fancy schemes, had induced several depositors numbering to more than a lakh and have cheated them to the tune of Rupees Nine Thousand Crores approximately. Based on the complaint given by one Kumar, one of the depositors, a case has been registered in Crime No.16 of 2022 for the offences punishable under Sections 420 & 120(b) of IPC, Sections 3, 5, 21(1), 21(2), 21(3), 23 & 25 of the Banning of Unregulated Deposit Schemes Act, 2019 and Section 5 of Tamil Nadu Protection of Interests of Depositors (In Financial

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Establishments) Act, 1997.

3. Mr.A.Ramesh, the learned Senior counsel appearing for the petitioner would submit that the allegations as against the petitioner by the prosecution is that the petitioner worked as a canvassing agent for the company and collected deposits from 35 persons to the tune of Rs.3.86 crores. He would further submit that though, the petitioner's name does not find in the First Information Report, the petitioner was called for the enquiry and only on the information given by the petitioner about collecting money from those 35 persons, the petitioner was implicated in this case. He would also submit that other than collecting money from those 35 persons, the petitioner has no involvement with the company or the other depositors whatsoever. He would further state that the petitioner has collected Rs.3.86 Crores from 35 persons and he has returned the deposits collected from the 35 persons along with interest as promised and the 35 depositors have also duly acknowledged the return of their amounts and issued proper stamped receipts. He would further submit that other than the allegation of canvassing and collecting deposit from 35 persons, there is absolutely no allegations as

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against this petitioner. He would also submit that the petitioner's Bank accounts with balance of Rupees 51.35 Lakhs has been freezed by the respondent and a Volvo Car belonging to the petitioner, which was purchased by taking loan from the Financial Institutions, has also been seized by the respondent.

4. He would also reiterate that the petitioner is in custody for the past 48 days. He would further state that the fact remains that when the petitioner was taken for remanding, the learned Magistrate refused to remand as there was no material as against the petitioner. However, based on the statement recorded under Section 161 of Cr.P.C., from one of the witnesses, he was remanded to judicial custody. He would also submit that earlier the petitioner had filed an application for bail in Crl.M.P.No.3223 of 2022 and the learned Sessions Judge by an order dated 30.08.2022 had dismissed the same. Subsequently, the petitioner had filed another application for bail in Crl.M.P.No.3518 of 2022 and it was taken up for hearing on 12.09.2022 and in the open Court without any arguments, it was adjourned to 20.09.2022 for filing of counter, but an order of dismissal dated 12.09.2022 was wrongly

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uploaded in the web. However, on 20.09.2022, the matter was called and after arguments, the learned trial Judge had dismissed the same. He would further submit that the petitioner as an abundant caution is bringing to the knowledge of this Court about dismissal dated 12.09.2022 and 20.09.2022 in respect of the very same bail application in Crl.O.P.No.3518 of 2022.

5. He would also reiterate that as far as this petitioner is concerned, he is stated to have collected amount from 35 persons and the said 35 persons have been returned the deposits along with interest. He would further submit that the petitioner's paternal uncle, who has nurtured the petitioner from his childhood, has passed away on 26.09.2022 and the petitioner being a nephew, has to perform the last rites. Therefore, he prays for grant of bail to the petitioner.

6. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner along with the other accused promoted company in the name of IFS (International Financial Services) and LNS International Financial Services Limited and by

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advertising various attractive schemes induced more than one lakh persons to deposit and the petitioner along with the other accused have cheated the public to the tune of more than Rupees Nine Thousand Crores. He would further state that the investigation is pending and the respondent is yet to enquire with regard to the receipts produced by the petitioner from 35 persons. Therefore, he vehemently opposed to grant bail to the petitioner.

7. At this juncture, Mr.A.Ramesh, the learned Senior counsel appearing for the petitioner would submit that the receipts produced by the petitioner are the copy of the original receipts and in the event of the respondent finding that they are fabricated, he is entitled to file an application for cancellation of bail. Therefore, he prays for grant of bail to the petitioner.

8. Heard the learned Senior counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

9. Taking into consideration the facts and circumstances of the

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case, the submissions made by the learned counsel and also taking note of the fact that the allegations against the petitioner is that he has collected deposits from 35 persons and it is stated by the petitioner that the entire 35 persons have been returned the deposits along with interest and proper proof have been filed before this Court and also the petitioner is in custody for more than 45 days, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** each with **two sureties**, each for a like sum to the satisfaction of the **learned Special Court for Exclusive Trial of Cases under TNPID Act, Chennai,** 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., for a period of four weeks and thereafter, every Monday at 10.30

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a.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 abscond, a fresh FIR can be registered under Section 229A IPC.

11. The submission made by Mr.A.Ramesh, the learned Senior counsel with regard to two orders being uploaded in respect of Crl.M.P.No.3518 of 2022 (one dated 12.09.2022 and another dated 20.09.2022) is viewed seriously.

12. In view of the above, the Registrar (Judicial), Madras High

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Court is directed to call for the explanation from the learned Sessions Judge/Special Court for Exclusive Trial of Cases under TNPID Act, Chennai with regard to how two orders in respect of the application in Crl.M.P.No.3518 of 2022 is available in the web.

27.09.2022

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Copy to: The Registrar (Judicial), Madras High Court.

To

1. The Special Court for Exclusive Trial of Cases under TNPID Act,
   Chennai,

2. The Deputy Superintendent of Police,
   Economic Offences Wing (EOW),
   Ashok Nagar,
   Chennai.

3. The Superintendent,
   Central Prison,
   Puzhal, Chennai.

4. The Public Prosecutor,
   High Court of Madras.

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A.D.JAGADISH CHANDIRA., J.

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