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Crl.O.P.No.26198 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM

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

Crl.O.P.No.26198 of 2022

S.Vadivel

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
C-1 Flower Bazaar Police Station,
Chennai.
Crime No.269 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.
269 of 2022 on the file of the respondent police.

For Petitioner : Mr.G.Mohanakrishnan

For Respondent : Mr.C.E.Pratap

Government Advocate (Crl.Side)

For Intervenor : Mr.A.Nirmal Kumar



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.10.2022, for the offences punishable under Section 420 of IPC, in Crime No.269 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant/Manikandan is that, he was engaged in the cashew nut business. The petitioner and his wife approached the defacto complainant for purchase of cashew nuts on credit basis. Believing the words of the petitioner, the defacto complainant had supplied cashew nuts worth about Rs.36,91,891/- on various days. Whereas, the accused had not paid the amount for the cashew nuts and thereby cheated him. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that a case of business transactions has been falsely projected as a case of cheating. He would further submitted that the petitioner had already paid a sum of Rs.10 lakhs to the defacto complainant. He would further submit that the petitioner on an earlier occasion had given a complaint before the



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Kothwalchavadi Police Station, for which enquiry was conducted in C.S.R.No.60 of 2021 and only counter blast to the said complaint, present false complaint has been lodged before the Flower Bazaar police station. He would further submit that the complaint was given on 06.10.2022 and the case was registered on the same day and in a case of business transaction, even without conducting preliminary enquiry, case was registered and the petitioner was arrested on the same day. However, to show his bonafide, the petitioner is ready to deposit the original title deeds of the immovable property worth about Rs.30 lakhs either belonging to himself or family members or friends, at the time of executing the sureties and hence, he prays for grant of bail to the petitioner.

4. The learned Counsel for the intervenor submit that the petitioner induced the defacto complainant and believing the assurance given by the petitioner, the defacto complainant had supplied the cashew nuts worth about Rs.36,91,891/- on various days. Whereas, the petitioner had not paid the amount for the cashew nuts and thereby cheated him. Hence, he opposed for grant of bail to the petitioner.



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5. The learned Government Advocate (Crl.Side) submit that the petitioner had cheated the defacto complainant to the tune of Rs.36,91,891/-. Hence, he opposed for grant of bail to the petitioner.

6. Heard the learned counsel for the petitioner, learned counsel for the intervenor and the learned Government Advocate (Crl.Side) and perused the materials available on record.

7. Taking into consideration the facts and the submissions made by the learned Counsel for the petitioner and also considering the period of incarceration undergone by the petitioner and also considering the undertaking given by the petitioner that he is ready to deposit the original title deeds of the immovable property worth about Rs.30 lakhs either belonging to himself or family members or friends, at the time of executing the sureties, this Court is inclined to grant bail to the petitioner.

8. 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)** with **two sureties (one surety shall be either father or**



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mother of the petitioner), each for a like sum to the satisfaction of the learned VIII Metropolitan Magistrate, George Town, Chennai and on further conditions that:

[a] the petitioner shall deposit the original title deeds of the immovable property worth about Rs.30 lakhs either belonging to himself or family members or friends to the credit of crime number at the time of executing the sureties;

[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 everyday at 10.30 a.m., for a period of two weeks and thereafter on every Saturday at 10.30.a.m., until further orders;

[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



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

31.10.2022

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To

1. learned VIII Metropolitan Magistrate Court,
George Town, Chennai.
2. The Inspector of Police,
C-1 Flower Bazaar Police Station,
Chennai.
3. Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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