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CrI.O.P.No.26709 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

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

CrI.O.P.No.26709 of 2022

Velumani. R

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Central Crime Branch,
Coimbatore.

(Crime No.26/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.26
of 2022 pending investigation on the file of the respondent Police.

For Petitioner	: Mr.R.Sankarasubbu
For Respondent	: Mr.C.E.Pratap Government Advocate (CrI.Side)
For Intervener	: Mr.K.Subburam



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 10.10.2022, for the offences punishable under Sections 120B, 406, 420 & 506(i) IPC in Crime No.26 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant/Venkatesan is that his friend Gunasekaran introduced one A1 and A2, who had induced the de-facto complainant by saying that they are involved in the real estate business and they have got a 35 acres of land and out of which A1 has got one fourth share and that rest of the land belongs to other share holders and they have induced the de-facto complainant to enter into the joint venture and received a sum of Rs.64 lakhs on various dates and later cheated the de-facto complainant by not registering the property and not returning the money. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A2 in this case. He would further submit that



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he is a real estate broker and even as per the complaint, it was one A1 who is represented to be the owner of the property and the petitioner only acted as the mediator and according to the confession recorded from A1, an amount of Rs.5 lakhs has been transferred to his account. He would also submit that a car as well as the original title deeds of two properties owned by the petitioner have been seized by the respondent Police. He would also state that the petitioner is in custody from 10.10.2022 and he has not taken into police custody and there is no further requirement of the petitioner to be in judicial custody. He would further submit that the petitioner without prejudice to his defence is ready to deposit Rs.5 lakhs to the credit of Crime No.26 of 2022. He would further reiterate that the original title deeds of the petitioner and the car were seized by the respondent.

4. The learned counsel would further submit that the fact remains that the financial dispute has been projected as the case of cheating and even as per the de-facto complainant, A1 has refunded Rs.3 lakhs by cash and also given two cheques for a sum of Rs.31 lakhs and Rs.30 lakhs respectively, which were bounced, when they presented for collection. He would also submit that the de-facto complainant instead of initiating proceedings under



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138 of Negotiable Instruments Act, has given this Complaint. Hence, he prays for grant of bail to the petitioner.

5. The Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner, who is arrayed as A2 in this case, along with the other accused had induced the de-facto complainant under the guise of doing land development business and cheated him to the tune of Rs.64 lakhs. He would also submit that from the custody of the petitioner, a car and two original title deeds were recovered. However, he would oppose for grant of bail to the petitioner.

6. The learned counsel for the Intervener would vehemently oppose for grant of bail to the petitioner stating that the petitioner is one of the main accused in this case and he along with other accused had induced the de-facto complainant and only believing their statement he had parted with the huge amount of Rs.64 lakhs. He would further submit that though the major amounts have been paid to the first accused, he has transferred an amount of Rs.5 lakhs by way of bank transaction to the petitioner and further the petitioner has also received huge cash from A1 and with the same and



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had purchased two properties and a car.

7. Heard both the learned counsel for the Petitioner and the Intervener and the learned Government Advocate (CrI.Side) and perused the materials available on record.

8. Taking into consideration the facts and circumstances of the case and the voluntary submission made by the learned counsel for the petitioner that the petitioner is prepared to deposit Rs.5 lakhs to the credit of crime number and taking note of the fact that a car and the original title deeds, which are stated to have purchased by the petitioner were seized by the respondent and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on condition that he makes a deposit of **Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of the Crime No.26 of 2022**, without prejudice to his rights and contentions before the Court concerned and on such deposit, the



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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**, each for a like sum to the satisfaction of the **learned Judicial Magistrate-VII, Coimbatore** 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, everyday at 10.30 a.m., for a period of three weeks and thereafter, every Saturday at 10.30a.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]***;



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

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To

1. The Judicial Magistrate VII,
Coimbatore.
2. The Inspector of Police,
Central Crime Branch,
Coimbatore.
3. The Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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