



Crl.OP.No.27102 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 07.11.2022**

**CORAM**

**THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR**

**Crl.OP.No.27102 of 2022**

Ashok Kumar

... Petitioner

Vs.

State rep by  
The Inspector of Police,  
District Crime Branch Police Station,  
Nagapattinam District.  
Crime No.22 of 2022

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C.,  
pleased to enlarge the petitioner on bail Crime No.22 of 2022 on the file of  
the Inspector of Police, District Crime Branch Police Station, Nagapattinam  
District.

For Petitioner : Mr.R.John Sathyam for  
Mr.Swamisubramanian

For Respondent : Mr.C.E.Pratap,  
Government Advocate (crl.side),



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## **ORDER**

The petitioner, who was arrested and remanded to judicial custody on 14.10.2022 for the offences punishable under Sections 468, 471 and 420 of IPC in Crime No.22 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant runs a Cinema Theatre in the name and style of “Devi Theatres”. While so on 22.09.2018, the defacto complainant had entered into a lease agreement with the petitioner in respect of running the said theatre and for which, the petitioner had paid an amount of Rs. 13,00,000/- as advance. Thereafter, the theatre was handed over to the petitioner, as per the lease agreement. The said lease agreement was expired on 21.09.2022. The petitioner has not paid the due amount of Rs.29,69,750/- to the defacto complainant and the petitioner had also filed suit before the District Court, Nagapattinam against the defacto complainant with the aide of forged lease agreement, which contain the signature of the defacto complainant. Hence, the case.



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3. The learned counsel appearing for the petitioner would submit that the petitioner had entered into the lease agreement with the defacto complainant in respect of running the theatre. The said lease was for a period of 4 years i.e., from 22.09.2018 from 21.09.2022. During this period, the petitioner had invested and developed the theatre by spending huge amount. The said lease was expired on 21.09.2022. Now, it has been projected as in the absence of the lessor, the lease agreement has been renewed from 21.09.2022 for a period of one year. It is alleged that the application for renewal and the “c form” itself a forged one and the signature of the defacto complainant is also a forged one.

4. According, to the petitioner, the lessor used to hand over the signed letters and documents to the petitioner and the lessee had used it. Now, it has been projected as there was a dispute between the lessor and lessee. The petitioner had filed a suit in C.O.S.No.3 of 2022 before the Principal District Court, Nagapattinam. Informing the same to the defacto complainant, he had lodged a complaint against the petitioner. The petitioner was called for enquiry and a case has been registered against him. The



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petitioner, A1 and A2 in this case filed Anticipatory bail petition before this Court in Crl.O.P.No.22265 of 2022 and the defacto complainant appeared as intervenor and filed objection petition and by considering the same, the anticipatory bail was dismissed by this Court on 17.10.2022. The petitioner was arrested and he is in prison from 14.10.2022. Therefore, he prays for grant of bail to the petitioner.

5. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner had entered into the sale agreement with the defacto complainant in the year 2018 for a period of 4 years from 22.09.2018 to 21.09.2022. Thereafter, the lease agreement was renewed without the knowledge of the defacto complainant by forging the signature, and the “c form”, since the petitioner was in Singapore. Therefore, the defacto complainant had lodged a complaint against the petitioner. Subsequently, the petitioner has also filed a suit in C.O.S.No.3 of 2022 before the Principal District Court, Nagapattinam. Now the case is at the crucial stage and the petitioner is very much to be in confinement for further investigation. Hence, he vehemently opposed to grant bail to the petitioner.



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6. Heard both the learned counsel and perused the materials available on record including the First Information Report.

7. Taking into consideration of the facts and circumstances of the case, finding the allegation of complaint predominately civil in nature, business deposits and also taking note of the incarceration period suffered by the petitioner from 14.10.2022, this Court is inclined to grant bail to the petitioner with certain conditions.

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**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Nagapattinam** 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 as and when required for interrogation;**



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[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.

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To

1. The learned Judicial Magistrate No.I, Nagapattinam,  
Nagapattinam District.
- 2.The Inspector of Police,  
District Crime Branch Police Station,  
Nagapattinam District.
3. The District Prison,  
Nagapattinam.
4. The Public Prosecutor,  
High Court of Madras.



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**M. NIRMAL KUMAR,J.**

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