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CrI.O.P.No.28422 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2022

CORAM

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

CrI.O.P.No.28422 of 2022

1. T.Mohan

2.T.Jawahar

3.Anand

... Petitioners

Vs.

State represented by,  
The Inspector of Police (CCB)  
Team 21, EDF III,  
Vepery, Chennai - 7.  
(Crime No.88/2022).

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C.,  
pleaded to enlarge the petitioners herein on bail in connection with the case  
in Crime No.88 of 2022 on the file of the Inspector of Police, CCB, Team-  
21, EDF-III, Vepery, Chennai.

For Petitioner : Mr.R.Nareshkumar

For Respondent : Mr.C.E.Pratap  
Government Advocate (CrI.Side)

For Intervenor : Mr.Richarson Wilson.



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## **ORDER**

The first petitioner who was arrested and remanded to judicial custody on 15.10.2022 and the petitioners 2 and 3 were voluntarily surrendered on 18.10.2022 before the respondent police and remanded to judicial custody for the offences punishable under Sections 406, 420 r/.34 IPC in Crime No.88 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the de-facto complainant/Gajarajan is that the accused who are the major Shareholders and Directors in the accused company had induced the defacto complainant to invest for purchase of land for putting up a power projects and believing the assurance of the accused, the defacto complainant had during the period between 2005-2012 had invested huge amount to the tune of Rs.51.32crores. The further allegation is that the accused had not purchased the lands in the name of the defacto complainant and had purchased the properties in their individual names and thereafter, settled the properties in favour of their family members, with an intention to defraud the defacto complainant and thereby, the accused had cheated the defacto complainant. The further



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allegation is that when the defacto complainant had confronted with the accused, they had entered into a memorandum of understanding wherein they had agreed to repay a sum of Rs.200crores on or before 24.08.2021 and later they failed to honour the commitment. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the first petitioner is the promoter and major shareholder of the alleged accused company, the petitioners 2 and 3 are respectively arrayed as A9 and A11. He would submit that a case of commercial transaction has been attempted to be convert as a criminal case. He would submit that the alleged transaction are stated to have been taken place between 2005-2012 and belated complaint has been given during the year 2022, and the petitioners were arrested on 15.10.2022 and 18.10.2022. Now, based on the criminal complaint and by keeping the petitioners in custody, the defacto complainant had attempted to settle the civil disputes pending between them. However, without prejudice, today, the first petitioner/T.Mohan has filed an affidavit of undertaking, agreeing to convey the lands belonging to the companies in favour of the defacto complainant. The relevant paragraphs in the affidavit of undertaking are extracted hereunder :-



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"6.To settle the issues, I am willing to convey the following companies Namely (1)THAMIRA GREEN FARMS PRIVATE LIMITED (2)THUTHUKUDI GREEN FARMS PRIVATE LIMITED (3)NELLI DRY LAND AGRO FARMS PRIVATE LIMITED (4)INDIAN INTEGRATED ENERGY LIMITED (5)IMP INFRA HOLDINGS PRIVATE LIMITED to and in favour of the defacto complainant.

7.To settle once for all, for the above investment, I am ready to convey the lands stand in the name of above said five companies, after I come out on bail. I will do the formalities for smooth settlement."

4. He would further submit that the first petitioner was arrested and is in custody from 15.10.2022 and the petitioners 2 and 3 have voluntarily surrendered on 18.10.2022 before the respondent police and remanded to judicial custody, the major part of the investigation is completed. He would submit that the case of the prosecution is borne out by documents and further custody of the petitioners may not be necessary. He would also submit that the undertaking of the first petitioner may also be considered for granting bail. Hence, he prays for grant of bail to the petitioners.



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5. The learned Government Advocate (Crl.side) would submit that the accused had induced the defacto complainant on the false assurance and promise of purchasing lands for putting up a power projects and believing the same the defacto complainant had invested a sum of Rs.51.32crores. Whereas the accused had purchased the properties in their own name and had cheated the defacto complainant by settling them in favour of their relatives. He would submit that the investigation is pending and he would oppose for grant bail to the petitioners.

6. Mr.Richardson Wilson, learned counsel appearing for the intervenor would submit that only believing the words of the petitioners the defacto complainant had invested the huge amounts from the year 2005-2012, whereas they have purchased the lands in their individual names and also transferred the same in favour of their family members. Subsequently, when confronted, the accused had entered into a memorandum of understanding dated 24.11.2020 and agreed to repay an amount of Rs.200crores and had agreed not to alienate the property till such amount is being paid as per MOU dated 24.11.2022. Since, the petitioners have further cheated the defacto complainant by not honouring the commitment, the



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present complaint was given by the defacto complainant. He would submit that the petitioners may be directed to honour the commitment given in the affidavit filed before this Court. The learned counsel for the defacto complainant/Intervenor has also filed a memo before this Court.

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

8. Taking into consideration, the facts and circumstances and the period of incarceration undergone by the petitioners and also the affidavit filed by the A1/first petitioner before this Court, this Court is inclined to grant bail to the petitioners with certain conditions :-

9. Accordingly, the petitioners are ordered to be released on bail on their executing a separate 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 Court of CCB cases, Metropolitan Magistrate Court, Egmore, Chennai-8**, and on further conditions that :



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[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 petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of three weeks and thereafter on every Saturday at 10.30am until further orders ;**

[c] the petitioners shall not abscond during trial;

[d] the petitioners shall not tamper with evidence or witness during trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

**29.11.2022**

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To

1. The Court of CCB cases, Metropolitan Magistrate Court,  
Egmore, Chennai-8.
2. The The Inspector of Police (CCB),  
Team 21, EDF III,  
Vepery, Chennai - 7.
3. The 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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