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CrI.O.P.No.29503 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No.29503 of 2022

S.P.Rajendran

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
CBCID,
Coimbatore.

(Crime No.2/2021).

... 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.2 of
2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.C.Manishankar, Senior counsel

For Mr.T.N.Rajagopalan

For Respondent : Mr.C.E.Pratap

Government Advocate (CrI.Side)

ORDER



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The petitioner, who was arrested and remanded to judicial custody on 31.10.2022 for the alleged offences punishable under Sections 147, 148, 452, 506(ii) @ 120(B), 147, 148, 452, 427, 294(b), 506(ii), 386, 354(A), 201 r/w 114 IPC and Section 4 of Tamilnadu Prohibition Harassment of Women Act and Section 3 of Tamil Nadu Medicare Service Person and Medicare Service Institution (Prevention of Violence and Damages of Loses to Property Act) in Crime No.2 of 2021, seeks bail.

2(i).The case of the prosecution is that the petitioner is a practising advocate, who is arrayed as second accused and one Dr.V.Ramachandran, who is the client of the petitioner herein is arrayed as first accused. The above said Ramachandran is the owner of the property bearing Door No.932 A, Sathy Road, Coimbatore – 641 012 and he is running a hospital under the name and style of “Lakshmi Narayana Clinic” with its trade mark as “Ellen Hospital”. While being so, Dr.Umashankar, approached him during the year 2017 and requested to take over his hospital and run the hospital under the name and style of M/s. Chennai Hospital Private Limited. Thereafter, the first accused has entered into lease agreement with the said Dr.Umashankar on 05.07.2017 registered vide document No.3673 of 2017, for a period of ten



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years and rent per year is fixed as Rs.3,30,00,000/- with periodical increase.

2(ii).Accordingly the said Dr. Umashankar had paid a sum of Rs.1,00,00,000/- as a security deposit. Thereafter, he paid a sum of Rs.6,75,000/- on four occasions totalling to the tune of Rs.27,00,000/- towards rent and he was irregular in payment of monthly rents. Therefore, the first accused called upon him to pay arrears of rent and requested to vacate the premises. Further, there was no response as such he lodged a complaint. Thereafter, he issued cheque to the first accused for a sum of Rs.65,85,300/- and the same was returned as "payment stopped by the drawer". Further, he committed to sell the hospital in favour of third party as such the above said Ramachandran lodged a complaint before CCB, Coimbatore and an FIR is also registered under Sections 406, 420, 341, 506(1) and 109 of IPC in crime No.36 of 2020. After registration of the above said FIR, both the parties entered into a compromise and the first accused issued four cheques for a sum of Rs.66,68,000/- and those cheques were honoured on presentation. Further, he gave two cheques for a sum of Rs.17,82,000/-, all the above cheques were returned dishonoured for the reason "Funds Insufficient".



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on the file of the Judicial Magistrate No.VII, Coimbatore. In the meanwhile, the Director General of Police, Tamil Nadu, transferred the entire investigation to CBCID, Coimbatore and ordered for further investigation. In pursuant to the transfer of investigation, a petition was filed under Section 173(8) of Cr.P.C in Cr.MP.No.14192 of 2021 before the Judicial Magistrate No.VII, Coimbatore. Subsequent to the transfer of investigation, the respondent re-registered an FIR in Crime No.1 of 2021 in which Dr.Ramachandran arrayed as accused.

2(iv).Further, the learned Magistrate by an order dated 08.07.2021 dismissed the application for the reason that no case has been made out for further investigation. Aggrieved by the same, the first accused filed a writ petition before this Court in W.P.No.15601 of 2021, in which, this Court by an order dated 29.07.2021, ordered that no further investigation can be conducted in Crime No.1 of 2021, which is nothing but a replica of Crime No. 36 of 2020, which is an administrative act. In view of that the respondent CBCID cannot conduct any investigation. The said writ petition is still pending before this Court for filing counter. While being so, the said Dr.Umashankar, on 23.01.2021, died in road accident and a separate case



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has been registered against the driver of the vehicle, which is pending for investigation. Again, the Director General of Police, Tamil Nadu transferred the investigation in Crime No. 1376 of 2020 to the respondent and on receipt of the entire bundles, the respondent re-registered the FIR in Crime No.2 of 2021, wherein, Dr.Ramachandran is arrayed as first accused and the petitioner is arrayed as the second accused.

3. The learned senior counsel appearing for the petitioner submitted that the petitioner is a practising advocate for the past 27 years and he had never involved in any of the crime as alleged by the respondent. It is to be noted that the petitioner acts only as an advocate to the first accused and he has nothing to do with the alleged offences. That apart, the complaint lodged by the first accused was registered in Crime No.1376 of 2020 and now it was re-registered into Crime No.2 of 2021 which manifests that this incident had taken place during the year 2020. Hence, it does not require custodial interrogation of the petitioner in this case. Though, there was an allegation that petitioner was engaged as an henchmen to evict the said Dr. Umashankar from the hospital premises, harassed the in-patients, gave sex torture to the doctors, no one had lodged such a complaint against the petitioner so-far.



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Therefore, knowingly, the Director General of Police, transferred the investigation, since, already on the complaint lodged by the first accused, the investigation had completed and the final report has been taken on file in C.C.No.509 of 2021 on the file of the Judicial Magistrate No.VII, Coimbatore. He would further submit that the petitioner was earlier filed an application before this Court seeking for grant of anticipatory bail in Crl.O.P.No.14432 of 2022 and the same was dismissed by this Court on the ground that the said Dr.Umashankar died in the road accident and there was suspicion over the death, the investigation has not yet been completed and there is no previous case pending against the petitioner. Hence, he prays for grant of bail to the petitioner.

4.Per contra, the learned Government Advocate (Crl.Side) submitted that the investigation is at the initial stage. He would further submit that A1 was released on statutory bail and other accused also were released on bail. However, he opposed for grant of bail to the petitioner.

5.Heard the learned senior counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials



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available on record.

6.Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also considering the period of incarceration undergone by the petitioner as investigation is almost completed, this Court is inclined to grant bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with two sureties, for a like sum to the satisfaction of the **learned Judicial Magistrate -VII, Coimbatore**, and on further condition 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 05.00 p.m., for a period of three months and thereafter, on every Saturday at 10.30 a.m., until completion of investigation.

(c)the petitioner shall co-operate for investigation and



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not cause any annoyance to the Investigation Officer.

(d)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioner shall not abscond 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 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]*; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

12.12.2022

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To



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1.The Judicial Magistrate No.VII,
Coimbatore.

2.The Inspector of Police,
CBCID,
Coimbatore.

3.The Central Prison,
Coimbatore.

4. The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI,J.

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