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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.02.2022

Delivered on : 16.02.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.2412 of 2022

E.Haroon Natharsha

... Petitioner/Accused No.1

Vs

State rep.by
The Inspector of Police,
City Crime Branch,
Tirunelveli District.
(Crime No.14/2021).

... Respondent/Complainant

For Petitioner : M/s.J.Jeyakumaran, Advocate.

For Respondent : M/s.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

For Intervenor : M/s.R.Anand, Advocate

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

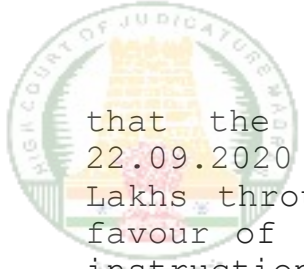
PRAYER :-

For Bail in Crime No. 14 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested on 16.01.2022, for the offences punishable under Sections 406, 418, 420 IPC, in Crime No.14 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner is running a mobile retail business in the name and style of "A to Z Mobiles" at Tirunelveli junction, that the petitioner agreed to sell his house property in D.No.19 Vasantha Nagar, Kokkirakulam, Tirunelveli District to the complainant and the complainant also agreed to purchase the said property for the sale price of Rs.1,17,50,000/-,



that the complainant paid an advance of Rupees Ten Lakhs on 22.09.2020 through cheque, that subsequently paid Rupees Eleven Lakhs through RTGS and Rupees Four Lakhs through bank deposit, in favour of second accused, ie., wife of the petitioner, that at the instructions of the petitioner, the complainant had deposited the remaining amount in the bank accounts of the petitioner's employees and his relatives, that the petitioner after receiving the amount had settled the home loan due by him to State bank of India and received the original documents and handed over the same to the complainant, that despite the specific requests made by the complainant, the petitioner has been postponing the sale on some pretext or the other, that subsequently when the petitioner was questioning about the delay caused by him, on 27.10.2021 the petitioner has openly stated that he would not sell the property and also threatened the complainant with dire consequences and that the complainant feeling cheated and frightened, was constrained to lodge the complaint.

3.The case of the petitioner is that he borrowed a sum of Rs.21,00,000 from the complainant, for which the complainant had obtained the petitioner's signature in 20 stamp papers, green sheets and blank cheque and also obtained the original sale deed of the petitioner, in respect of the property in question, that the complainant in order to grab the property had drafted the sale agreement dated 22.09.2020, that since the complainant was threatening him, he was forced to lodge a complaint before the Medical College Police Station, Tirunelveli city, that subsequently he has sent a legal notice to the complainant, to receive the amount of Rs.21 lakhs and to return the original sale deed and that since there is no response for the notice, the petitioner filed a civil suit in O.S.No.293 of 2020 and same is pending on the file of Subcourt, Tirunelveli.

4.Heard the learned counsel for the petitioner, the learned counsel for the intervener and the learned Government Advocate (Crl.Side).

5.Admittedly, the petitioner is running the 'A to Z' mobile shop and is owning the property situated at door number 19 Vasantha Nagar, Kokkirakulam, Tirunelveli.

6.The main contention of the *defacto* complainant is that the petitioner had offered to sell his property and the complainant had agreed to purchase the same and the sale price was fixed as Rs.1, 17,50,000/-, that the complainant had paid an advance amount of Rupees Ten Lakhs on 22.09.2020 and thereafter at the direction of the petitioner, he had sent the amounts to the bank accounts of the petitioner's wife, relatives and staffs, that the petitioner alone has sent the bank particulars of his staffs and relatives and that he had paid the entire sale amount of Rs.1,17,50,000/-.



7.The complainant has also furnished the particulars of payments made by him to the bank accounts of the petitioner's staff account and to other accused. As rightly contended by the learned counsel for the intervener, the petitioner has only admitted the payment made to him i.e., Rupees Twenty One lakhs and denied the receipt of payments, which were made to the other accused. Admittedly the second accused is the wife and the accused No.6 to 8 are the relatives of the first accused and that accused number 3 to 5 are the staffs of first accused. The *defacto* complainant has produced the copy of WhatsApp message sent by the first accused to the *defacto* complainant informing about the bank account details of other accused persons and the intervener also produced the copy of statement of accounts of the *defacto* complainant maintained in Axis bank and copy of receipts showing the alleged payments made as per the instructions of the first accused and also produced the statement of accounts of first accused.

8.It is the specific case of the intervener that the petitioner had repaid the home loan due to the State bank of India and received back his documents and that thereafter he has handed over the same to the complainant. The petitioner has not specifically disputed the above facts. He has taken a stand that at the time of taking loan of Rupees Twenty One Lakhs from the *defacto* complainant on 22.09.2020, the complainant had taken the original sale deed, in respect of the property in question. As rightly contended by the learned counsel for the intervener, there was no chance or occasion for the petitioner to hand over the sale deed at the time of alleged borrowal, since the original documents were with the State Bank of India. No doubt the FIR came to be registered on 07.08.2021 and the petitioner was arrested on 16.01.2022.

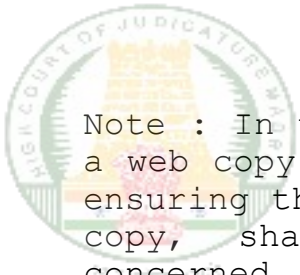
9.Considering the seriousness and gravity of offence alleged against the petitioner, quantum of amount involved and also taking into note that the investigation is pending, as stated by the learned Government Advocate, this court is not inclined to grant bail to the petitioner.

10.Accordingly this Criminal Original Petition is dismissed.

Sd/-
16/02/2022

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/ /2022
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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TO

1. THE INSPECTOR OF POLICE,
CITY CRIME BRANCH,
TIRUNELVELI DISTRICT.
2. THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.2412 of 2022

Date :16/02/2022

SP/SBN/SAR I/24/02/2022/4P/4C