BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 27/06/2022
PRONOUNCED ON : 29/06/2022
PRESENT
The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD). No.9624 of 2022

Basant Lal Sharma ... Petitioner/Accused A3

Vs

State represented by
The Joint Director of Police,
Central Bureau of Investigation (Eow Branch),
III Floor, EVK Sampath Building,
College Road, Chennai.
(Crime No.RCO692018E0008). ... Respondent/Complainant

For Petitioner : M/s.Saravanan C S,
Advocate.
For Respondent : Dr.M.D.Poornachari,
Special Public Prosecutor for CBI Cases

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

PRAYER :-
To enlarge the petitioner on bail in Crime No.RCO692018E0008 pending investigation on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 11.11.2021 for the offences punishable under Sections 406, 420 IP.C., and Section 4 and 5 of the Prize Chit and Money Circulation Schemes Banning Act, 1978 in Crime No.RCO692018E0008, on the file of the respondent police, seeks bail.

2. The petitioner before this Court is accused No.3. The first accused is one M/s Parivar Dairies and Allied Limited Company and the other accused are holding various positions in the first accused Company and some of them are involved in managing the affairs of the Company. The prosecution case is that the petitioner and other accused entered into criminal conspiracy during the year 2002 at Gwalior and other places for the purpose of getting wrongful gain for themselves by cheating innocent public by way of collecting deposits / investments from them dishonestly and fraudulently, without obtaining any approval or registration from the Reserve Bank of India (RBI) or Securities and Exchange Board of India (SEBI) and with false promise to pay high returns on such deposits / investments and collected deposits / investments from 17379 depositors to the tune of Rs.49,76,53,691/- (Rupees Forty Nine Crore

Seventy Six Lakh Fifty Three Thousand Six hundred and Ninety One only). Instead of returning the deposited amount on maturity, the petitioner along with other accused said to have misappropriated the said amount for their personal gain.

3. The defacto complainant has joined in a scheme introduced by the first accused Company and he has investigated Rs.1,07,000/- in his name and in the names of his wife and sister, that his repeated demands for payment of money on maturity did not yield any result and that since the Company itself was closed, he was constrained to lodge the complaint.

4. The learned Special Public Prosecutor appearing for the respondent would submit that the Memorandum of Association and Articles of Association of the first accused Company have no provisions for soliciting deposit from the general public, that the petitioner along with other accused in pursuance of their criminal conspiracy had dishonestly and fraudulently solicited deposits from the general public under various schemes and that even after maturity, they have failed to make any payment as agreed by them.

5. The learned Special Public Prosecutor would further submit that they have floated fraudulent deposit schemes in the name of M/s Parivar Dairies and Allied Limited and M/s PDA Foundation by making false promise and alluring the deposits for high interest for matured value, but engaged only for the circulation of money and did not return either the promised amount or the deposited amount, causing wrongful loss to the depositors, that in the said process, 17,379 depositors had suffered wrongful loss to the tune of Rs.49,76,53,691/- with corresponding wrongful gain to the accused including the petitioner.

6. The learned Counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. The petitioner's further case is that the investigation has already been completed and the charge sheet has also been filed, that the petitioner is having assets and the properties worth about Rs.1.40 Crore in Chennai and was attached by the Government of Tamil Nadu, vide G.O.Ms.No.828, dated 24.11.2016, that the properties of the other accused worth about Rs.32.08 Lakhs in Nilakottai, Dindigul and Rs.4.42Crore in Bangalore were attached vide G.O.Ms.No.352, dated 26.08.2021.

7. The learned Counsel for the petitioner would further submit that the petitioner was arrested in another three cases in Cr.No.255 of 2011 of Gole Ka Mandir Police Station, Gwalior, Madhya Pradesh, Cr.No.268 of 2011 of Civil Lines Police Station, District Morena, Madhya Pradesh and in Cr.No.157 of 2011, in Lahar Police Station, District Bhind, Madhya Pradesh and that the petitioner had already been granted bail by the Madhya Pradesh High Court in all the three cases.

8. It is not in dispute that some of the investor[illegible]to complainants have approached this Court in Crl.O.P.(MD)Nos.10036 and 11021 of 2016 for transfer of investigation and this Court, vide common order dated 11.09.2018, has transferred the case to CBI and on that basis, the present case came to be registered. It is pertinent to note that this Court, in the said common order, by observing that magnitude of the problem is also very high since it involves lakhs of investors, who have been cheated in several crores of rupees and since the case involves inter state ramification, decided to keep the case pending to ensure that the investigation is proceeded in the right direction.

9. It is also not in dispute that A.3 and A.4 have filed applications for bail before this Court in Crl.O.P.(MD)No.9790 of 2021 and the learned Judge of this Court, vide order dated 15.09.2021 has granted bail and in the said order, the learned Judge has also appointed a Committee under the Chairmanship of the Hon'ble Mr.Justice N.KIRUBAKARAN, retired judge of this Court and issued several directions to the accused, intervenor/complainant and the Committee.

10. No doubt, as rightly pointed out by the learned Special Public Prosecutor, the petitioners/ A.3 and A.4 therein were arrested on 19.01.2021 and they were granted bail by this Court, vide order dated 15.09.2021. The learned Special Public Prosecutor would submit that during the enquiry of earlier bail petition filed by the accused 3 and 4, the intervenor in Crl.M.P.(MD)No.5780 of 2021 has filed typed set of papers enclosing the list showing that the total number of depositors at 45,167/-, total deposit amount atRs.77,91,08,734/- and the total maturity amount at Rs.222,02,45,618/-, that the intervenor has furnished the details of around 30,000/- depositors and that several depositors were not aware of the proceedings and that there would be more complaints.

11. The learned Special Public Prosecutor would further submit that the property at Chennai mentioned by the petitioner stands in the name of PDA foundation and the name of the petitioner does not find anywhere in the document pertaining to the property, which has been attached ad-interim under TNPID Act, that the properties at Nilakottai and Bengaluru have also been attached ad-interim under TNPID Act and the same were effected much before the arrest of the petitioner and that cannot be shown as a ground for seeking bail. She would further submit that the value of the attached properties are much less when compared to the amount mentioned in the charge sheet and that the total amount deposited is likely to increase manifold. She would further submit that since the petitioner is from North India, he will abscond and it will be very difficult to apprehend later.

12. No doubt, the petitioner's earlier application in Crl.O.P. (MD)No.7344 of 2022 was dismissed by this Court, considering the

quantum of amount involved and the petitioner's failure to pay any amount till then and the objections of the prosecution that the petitioner would abscond to North India if he is released on bail. Moreover, the charge sheet has already been filed and the case was taken on file in C.C.No.6 of 2018 and is pending on the file of the Special Court for TNPID Act cases, Madurai.

13. The learned Counsel for the petitioner would submit that in the bail application itself, they have shown the change of circumstances, that the petitioner is ready to deposit the amount as directed by this Court. He would further submit that the petitioner undertakes to deposit the amount which was directed to be deposited by the co-accused by this Court.

14. Considering the above facts and circumstances and also the fact that the case is pending in C.C.No.6 of 2018 on the file of the Special Court for TNPID Act cases, Madurai, that two of the co-accused were already granted bail by this Court and also taking note of the undertaking on behalf of the petitioner, this Court is inclined to grant bail to the petition with certain conditions.

15. Accordingly, the petitioner shall deposit a sum of **Rs.1,25,00,000/- (Rupees One Crore and Twenty Five Lakhs only),** without prejudice to his rights and contentions before the trial Court concerned;

16. On such deposit, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the learned Judge, Special Court for the TNPID Act cases, Madurai;

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii)**the petitioner shall appear before the concerned Court every Monday at 10.30a.m.,until further orders**;

(iii)the petitioner shall not tamper with evidence or witness;

(iv)the petitioner shall not abscond during trial;

(v)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].***

(vi)If the accused / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
29/06/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.)
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.

TO

1. THE JUDGE,
   SPECIAL COURT UNDER THE TAMIL NADU PROTECTION OF INTERESTS
   OF DEPOSITORS (IN FINANCIAL ESTABLISHMENTS) ACT 1997,
   MADURAI.

2. THE JOINT DIRECTOR OF POLICE,
   CENTRAL BUREAU OF INVESTIGATION (EOW BRANCH),
   III FLOOR, EVK SAMPATH, BUILDING,
   COLLEGE ROAD, CHENNAI.

3. THE SUPERINTENDENT,
   CENTRAL PRISON, GWALIOR,
   MADHYA PRADESH.

4. THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
   MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.C.S.SARAVANAN, Advocate (SR-6340[I] dated 29/06/2022)

+1 CC to M/s.M.D.POORNACHARI, Special Public Prosecutor for CBI, (SR-6362[I] dated 30/06/2022)

ORDER
IN
CRL OP(MD) No.9624 of 2022
Date :29/06/2022

SSL
USK/PN/SAR-III/29.06.2022/5P/7C