



Crl.O.P.No.5798 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

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

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Andrew @ Andrews Caldwell

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
CCB-I,
CCB - Chennai.

(Crime No.32 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.32 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.S.Arivazhagan

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

For Intervener : Mr.D.Yuvarajan



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.02.2023, for the offences punishable under Sections 406, 420 & 506(ii) of IPC, in Crime No.32 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the de-facto complainant is that one Prabhu/A1 approached him through one Pachaiyappan, who was a broker, and offered to purchase his property comprised in Survey No.83/1A, 83/1B1B, measuring to an extent of 8180 sq.ft, situated at Ekattur Village and the sale consideration was fixed at Rs.1,63,00,000/-. Thereby, the sale deed was executed in favour of A1 on 02.06.2014 and on 31.12.2014, when the de-facto complainant has demanded a sum of Rs.50,000/- out of sale amount, A1 refused to give the amount. The further allegation is that on 01.01.2015, A3 & A4, who themselves claimed as Police, have kidnapped the de-facto complainant and forcibly obtained signatures and also threatened him with dire consequences. Subsequently, they forcefully obtained sale deed in favour of A4 and also demanded a sum of Rs.4,00,00,000/- from the de-facto complainant. Based on his complaint, a



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case in Crime No.32 of 2023 was registered for the offences punishable under Sections 406, 420 & 506(ii) of IPC. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the plot Nos.107, 108, 109 in Approved Layout No.L.A.46/89 of the property comprised in Survey No.83/1B1B, were originally taken over by SIPCOT and by suppressing the same and without obtaining NOC from SIPCOT, the de-facto complainant had sold the property to the friend of the petitioner, one Prabhu(A1) and later, A1 and the petitioner, on coming to know that they have been cheated by the de-facto complainant, had contacted the de-facto complainant to cancel the sale deed and to return the sale consideration given to him, whereas, the de-facto complainant refused to return the money. He further submitted that thereafter, a Memorandum of Understanding was entered into between the de-facto complainant, on one side and A1, A2, A4 and the petitioner on another side and as per the said MoU, the de-facto complainant has agreed to repay the amount and till such time, he gave the cheques as security to A2, wife of A1 and later, the de-facto complainant went back on his words.



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4. He also submitted that earlier, on the complaint given by the de-facto complainant, enquiry was conducted and during such time, the respondent finding that the case is civil in nature, have not taken any action. While so, the petitioner was arrested in a false case of rape and when he was in custody, the present case came to be registered. He further submit that the complaint has been given as early as on 2016 and the petitioner had been duly appearing for enquiry on all hearing dates and he never evaded from appearing before the Court. He also submit that a case civil dispute had been given a criminal colour and infact, the de-facto complainant is the person who has cheated A1 & A2 and the petitioner has been unnecessarily roped in this case for having helped A1 & A2. He further submitted that the petitioner is in custody from 14.02.2023 and the custodial interrogation has been over and there is no requirement for further custody of the petitioner. Hence, he prayed for grant of bail to the petitioner.

5. Learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner (A3) is the friend of one Prabhu, who is arrayed as A1. He further submitted that A1 & A2 had



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purchased the property from the de-facto complainant and later, there was a dispute between them, since the land was earlier acquired by SIPCOT and later, the accused had kidnapped the de-facto complainant and taken the amount as security from him by way of cheque and they have also forcefully obtained signature in MoU dated 23.01.2015. He also submitted that investigation in this case is pending, thereby, he oppose for grant of bail to the petitioner.

6. Learned counsel for the Intervener submitted that it is the case, where the petitioner, by misusing and abusing his position as Sub-Inspector of Police, threatened the de-facto complainant along with other accused and have also kidnapped the de-facto complainant and forcibly taken cheques and also blank pro notes from him. He further submitted the petitioner has been arrested in another case registered for the offence under Section 376 IPC. Hence, he object for grant of bail to the petitioner.

7. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record including the First Information Report and the Memorandum of Understanding.



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8. Taking into consideration the facts and circumstances of the case and the submissions made by either side of the parties and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

9. 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 Metropolitan Magistrate for the exclusive trial of CCB Cases (relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai-08**, 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, everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;



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[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.

15.03.2023

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To

1. The Metropolitan Magistrate for the exclusive trial of CCB Cases (relating to Cheating Cases in Chennai) & CBCID Metro Cases, Egmore, Chennai-08.
2. The Inspector of Police,
CCB-I,
CCB - Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA.,J.



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