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Crl.O.P.No.6842 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

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

Crl.O.P.No.6842 of 2023

Santhosh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Central Crime Branch II, Tambaram.
Transferred from the file of,
Selaiyur Police Station,
Tambaram.

(Crime No.139 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in connection with the
Crime No.139 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.Ganesh Rajan

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



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ORDER

The petitioner (A2), who was arrested on 06.03.2023 and remanded to judicial custody on 07.03.2023, for the offences punishable under Sections 120(B), 406, 420, 465, 408, 471 of IPC, in Crime No.139 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant, Eswaramoorthy, Assistant General Manager, RACPC (Retail Assets Central Processing Centre), State Bank of India, Tambaram, is that the first accused entered into conspiracy with other accused and by fabrication of documents obtained housing loan for a sum of Rs.82.80 lakhs from the bank and cheated the bank. Later, the bank has initiated proceedings under SARFAESI Act, for recovery of dues by way of sale of the property. During such time, it was found that the petitioner, who is the Builder, along with A1 have fabricated the documents for enabling him to secure the loans. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely roped in this case. He further submitted that the petitioner other than being the Builder and Promoter of the



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flats, had not committed any offence and also submitted that A1 has approached the petitioner for purchase of flat, which was promoted by the petitioner and the petitioner has sold one of the flats to A1. He also submitted that A1 has availed loan from the bank based on the fabricated salary certificate and later he has not paid the loan properly and thereby, the bank had taken steps against him and they have also attached the flat. He further submitted that it is not the case where no property was available, whereas, here, the property is available. He further reiterated that other than being the Builder, the petitioner has not committed any offence and further submitted that the entire case of prosecution is borne out by documents. He also submitted that the the petitioner was arrested on 06.03.2023 and he is in custody for more than 20 days and the further custody of the petitioner may not be required in this case. He also submitted that petitioner is prepared to abide by any stringent conditions that may be imposed by this Court and ready to cooperate of investigation. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner, being the Builder, had



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facilitated A1 to avail loan from the bank and A1 has not repaid the loan amount. Later, during the investigation, it was found that the petitioner had fabricated the documents and after receiving the loan amounts from the bank had diverted the funds to the account of A1. He further submitted that the police custody of the petitioner has not been taken. He also submitted that no previous case is pending against the petitioner, however, he opposed for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

6. Taking into consideration the facts and circumstances of the case, the submissions made by either side, taking note of the fact that the petitioner is stated to be the Promoter and Builder and the main accused A1 has received loan from the Bank, this Court is inclined to grant bail to the petitioner with certain conditions.



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7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty five thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Tambaram**, 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;

[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]***;



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[f] If the accused thereafter abscond, a fresh FIR
can be registered under Section 229A IPC.

27.03.2023

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To

1. The Judicial Magistrate No.I,
Tambaram.
2. The Inspector of Police,
Central Crime Branch II,
Tambaram.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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