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CrI.OP.No.10050 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.10050 of 2023

Poonam Kejriwal

... Petitioner/A3

Vs.

State Rep by
The Inspector of Police,
Central Crime Branch,
EDF-1, Team-1, Vepery, Egmore,
Chennai-600 007.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in CCB Crime No.128 of 2021 on the file of the respondent Police.

For Petitioner : Mr.S.Mahaveersshivaji

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

For Intervenor : Mr.Vaibhav R.Venkatesh



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 29.03.2023 for the offences punishable under Sections 406 & 420 of IPC in CCB Crime No.128 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de facto* complainant is that the accused company no.1 deals in the business of sales and distribution of sugar and the defacto complainant deals in the business of wholesale and retail sale and distribution of sugar and as such, was associated with the accused company no.1. The defacto complainant had sold 02 rail rakes of sugar to the accused company no.1, the first rake of sugar was of 2343.70MT being on 09.11.2020 and the second rake was of 812.10MT being on 13.11.2020. Thus, the defacto complainant had sold a total of 3155.80 MT vide the abovementioned 02 rail rakes and had accordingly raised 23 nos of GST (Kolkata Circle) Invoices upon the accused company no.1 for a total amount of Rs.11,35,92,837.82/- (Rupees Eleven Crores Thirty Five Lakhs Ninety Two Thousand Eight Hundred Thirty Seven and Eighty Two Paise Only) being the total



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invoice value. Hence, it is a pure case of sale and purchase of sugar vide 02 rail rakes of consignments of sugar. Thereafter, the accused company against the aforesaid sale and supplies, made time to time on account part payments during the period 09.11.2020 till 31.03.2021 from its bank account maintained at HDFC Bank and further raised debit notes through GST portal for shortages and wastage, total amounting to Rs.9,76,07,739.00/- (Rupees Nine Crores Seventy Six Lakhs Seven Thousand Seven Hundred Thirty Nine Only) i.e., about 90% of the total invoice value. After adjustment of all such part payments, there is an outstanding balance of Rs.1,59,85,098.82/- (Rupees One Crore Fifty Nine Lakhs Eighty Five Thousand Ninety Eight and Eighty Two Paise Only) as on date.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is ready and willing to deposit a sum of Rs.20,00,000/- to the credit of Crime number for consideration of bail.



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4. The learned Additional Public Prosecutor appearing for the respondent would submit that there are totally three accused, in which the petitioner is arrayed as A3. After dismissal of the anticipatory bail of co-accused, the petitioner was arrested and remanded to judicial custody on 29.03.2023. He would submit that the arbitration proceedings between the parties is also pending. Hence, he vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances and the period of incarceration, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is directed to deposit a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) to the credit of CCB Crime No.128 of 2021 and on such deposit 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, each for a like sum to the satisfaction of the learned Metropolitan Magistrate, CCB, Egmore, Chennai 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



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their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. and 05.30 p.m. for a period of four weeks and thereafter, as and when required for interrogation.

[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]**.

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

7. This Criminal Original Petition is ordered with the above directions.

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G.K.ILANTHIRAIYAN, J.

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To

1. The Metropolitan Magistrate,
CCB, Egmore, Chennai.
2. The Inspector of Police,
Central Crime Branch,
EDF-1, Team-1, Vepery, Egmore,
Chennai-600 007.
3. The Superintendent,
Central Prison,
Puzhal (Women Prison).
4. The Public Prosecutor,
High Court of Madras,
Chennai.

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