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Crl.O.P.No.10638 of 2023

Orders Reserved on  
**19.09.2023**

Orders Pronounced on  
**22.09.2023**

**Crl.O.P.No.10638 of 2023**

**RMT. TEEKAA RAMAN.,J.**

Petitioner who is arrayed as A.4 apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 419, 465, 468, 471, 420 of IPC r/w 43, 66, 66(C), 66(D) of IT Act, 2000 registered in Crime No.92 of 2023, seeks anticipatory bail.

2 (i) The case of prosecution is that on 04.04.2023, the defacto complainant / Sunil Ravindranath lodged a complaint before the respondent police stating that on 04.02.2023, at around 8.00 pm. he received a call from a customer claiming to be one Naresh Ambela Desai conveying that he intend to purchase Rs.50 lakhs worth gold coins and jewellery and he was amended by the Boutique Operation Specialist one Vignesh, who sought some time to assess the amount of the gold coins available and so the impersonator said he will come to the store in sometime. The said impersonator called once again, the store manange informed the amount of gold coins available and the impersonator said that he will take jewellery for



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the remaining amount. The impersonator claimed that he is held up in a hospital and wanted to pay for the gold coins and jewellery via online payment (Airpay used by Tanishq) and that he will come and collect the gold articles.

2(ii) After verifying the II's, the staff of the defacto complainant had sent the airpay link to Rs.50 lakhs (Rs.10 lakhs 5 links) to the phone number given by the said impersonator and all the payments were done successfully and the defacto complainant received the confirmation email for the same. Later, at around 10.30 p.m when all the billing were completed, the said impersonator contacted and wanted the gold articles to be delivered near Murugan Hospital at Kilpauk, as it was getting late and he was held up there. Since all the ID's were verified and the payments were successful, three of the store stall of the defacto complainant delivered the gold articles to the said impersonator who was wearing a face mask, near Murugan Hospital.

2(iii) On 05.02.2023, at 12.30 am., the defacto complainant received an email to the store mail ID from airpay stating that the transaction for Rs.50 lakhs is a fraudulent transaction and the money was reverted back



to the actual Naresh Ambelal Desai from Maharashtra.

2(iv) It is further alleged that the actual Naresh Ambelal Desai was impersonated by forging his and his wife's ID by some third party by fraudulently using his electronic signature, password and other electronic data to attain wrongful gain. Based on the complaint of the actual Naresh Ambelal Desai, a FIR in Crime No.9/2023 came to be registered by Crime Branch, CID BKC, Mumbai. Mumbai police came to Chennai on 05.02.2023 itself to investigate the issue and arrested three persons on 06.02.2023, including one John David who committed the act in the store of the defacto complainant, when they tried to do a similar fraudulent act at Tanishq, Anna Nagar Branch resulting in registration of complaint in G-3 Kilpauk Police Station in Crime No.92 of 2023 u/s. 419, 465, 468, 471, 420, 4/w 43, 66 (C), 66(D) of IT Act 2000 on 04.04.2023.

2(v) After preliminary enquiry, the respondent police filed a counter statement stating the status of the case and submitted that John David was under P.T warrant, produced before the II Metropolitan Magistrate Court, Egmore, Chennai and remanded to judicial custody. Based upon the



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confession statement of A.2, A.3/Iyappan, A.1/Asis, A.4/Munwar Ali were arrayed as accused.

2(vi) Now, A.3 is confined in Central Prison, Mumbai in Cr.No.8/2023 for the offences punishable u/s.419,420, 465, 567, 468, 471, 120(b) IPC r/w. 66, 66(C), 66(D), IT Act 2000 on the file of Crime Branch, CID, BKC Mumbai.

2(vii) During the course of investigation, on 26.04.2023, the respondent police issued 41(A) Cr.PC summon to the petitioner/A.4 to appear for enquiry and he appeared for enquiry on 27.04.2023 and gave written statement that he assured that he obtained the jewels from A.2 and also requested two days time to produce the jewels.

3. The learned Government Advocate (crl.side) would contend that the overtact of the petitioner/A.4, from the confession of A.2, he has been arrayed as an accused. A.2 brought gold jewels in Tanishq (defacto complainant). A.4 received the gold jewels, worth Rs.50 lakhs and A.4 during interrogation, admitted having received the gold jewels from A.2/John Dvid. When the amount was transffered to Tanishq account, it was hacked by A.1/Asis through online.



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4. The learned counsel for the intervenor would contend that the present petitioner is a receiver of stolen goods and hence strongly opposed for grant of pre-arrest bail.

5. After hearing the rival submissions made by the parties, the learned counsel for the petitioner took time to get instruction from his party. When the matter is posted today, the learned counsel for the petitioner submitted that the petitioner herein is ready to deposit Rs.20 lakhs, without prejudice to his contention and sought 15 days time to deposit the said amount.

5(ii) A.1 and A.2 were arrested based upon the confession statements of A.3 and A.4. the petitioner herein who had received the goods property namely 57 sovereign gold coins to the extent of Rs.50 lakhs.

6. Taking into consideration all the submissions made by the parties, I am inclined to pass the following -



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- (i) A.2 is impersonator and other accused have been secured.
- (ii) The petitioner claims that he is an innocent purchaser.

7(i). Recording the willingness expressed by the counsel for the petitioner, I am inclined to grant pre-arrest bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned **II Metropolitan Magistrate, Egmore, Chennai**, on condition that the petitioner shall execute 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 Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

**[a] the petitioner shall deposit a sum of Rs.20 lakhs cash, within a period of 15 days to the credit of this Crime Number before the concerned II Metropolitan Magistrate Court, Egmore, Chennai ;**



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**[b] on such deposit, he has to appear before the respondent police on Wednesdays and Saturdays at 10.30 a.m., until further orders;**

**[c] should not leave the country without the permission of this Court.**

[d] the petitioner and 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.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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



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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(ii) On deposit of the above said amount by the petitioner, the intervenor, namely the defacto complainant is at liberty to withdraw the amount on furnishing suitable surety by filing necessary application before the concerned Magistrate Court and if any such application is being made by the party, the learned Magistrate is required to satisfy himself about the surety for the said amount of Rs.20 lakhs and pass necessary orders.

**22.09.2023**

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**RMT. TEEKAA RAMAN., J.**

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**order in**  
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**22.09.2023**

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