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Crl.O.P.No.11443 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

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

Crl.O.P.No.11443 of 2023

1.Hemalatha
W/o.Gurumoorthy

2.Gurumoorthy
S/o.Jayaraman

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
R5, Virugambakkam Police Station,
Virugambakkam, Chennai.

(Crime No.767 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners/accused on bail, in connection with the
Crime No.767 of 2022, pending investigation on the file of the respondent
Police.

For Petitioners : Mr.K.Madhan

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

For Intervener : Mr.A.Kripakaran



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3. Learned counsel appearing for the petitioner submitted that the

petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the petitioners had a business transaction with one Murugan and towards security, certain cheques were issued and documents executed in favour of the said Murugan. He further submitted that after receiving the entire amount, the said Murugan had refused to return the cheques to the petitioners and also set up the de-facto complainant and through him, cheques were presented for encashment and since it was presented after a long time, the cheques were returned as invalid and later, a false case has been given against the petitioners. He also submitted that a case of business/commercial transaction has been falsely projected as a case of cheating. He also submitted that earlier, a false complaint was also given against the petitioners before Dindigul Police Station and in which, the petitioners were granted anticipatory bail with a condition to appear before the Dindigul Police Station for a period of one week and when the petitioners have gone to comply with the condition, they were arrested. He also submitted that even in this case, the petitioners were arrested and produced before the learned XXIII Metropolitan Magistrate and the learned Magistrate, finding that the allegations are civil in nature, had refused to



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remand the petitioners. Subsequently, the de-facto complainant had challenged the order of refusal to remand and it was cancelled behind the back of the petitioners and pursuant to which, the petitioners were arrested and they were in custody from 25.04.2023. He also submitted that major part of the investigation in this case is over. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (CrI.Side) appearing for the respondent police submitted that the petitioners had induced the de-facto complainant stating that they were running the store in the name of Vayal Organic Store and borrowed a sum of Rs.40 lakhs from the de-facto complainant and they have paid interest of Rs.40,000/- per month only from 2016 to Jan 2022 and later, they have refused to pay interest as well as the principal amount. He also submitted that the cheques presented by the petitioners as security were also returned as invalid and when the de-facto complainant had demanded the amount, the petitioners had threatened him with dire consequences. He also submitted that one previous case of similar nature is pending as against the petitioners. Hence, he vehemently opposed to grant bail to the petitioners.



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5. Learned counsel appearing for the de-facto complainant vehemently opposed for granting bail to the petitioners stating that the de-facto complainant had given his hard earned money to the petitioners, whereas, they have cheated him and also threatened him. Hence he prayed for dismissal of the petition.

6. Heard the learned Counsel for the Petitioners, Intervener and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on their executing separate bond each for a sum of **Rs.25,000/- (Rupees Twenty five thousand only)** with **two sureties**, each for a like sum to the



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satisfaction of the **learned XXIII Metropolitan Magistrate, Saidapet, 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 their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioners shall stay at Dindigul and report before the Inspector of Police, DCB Dindigul, everyday at 10.30 a.m. for a period of two weeks and thereafter, they shall report before respondent police everyday at 10.30 a.m., until further orders;

[d] the petitioners shall not abscond either during investigation or trial;

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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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[g] If the accused thereafter abscond, a fresh
FIR can be registered under Section 229A IPC.

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To

1. The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
R5, Virugambakkam Police Station,
Virugambakkam, Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Central Prison(Women),
Puzhal, Chennai.
5. The Inspector of Police,
DCB, Dindigul,
Dindigul District.
6. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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