



Crl.O.P.No.11968 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

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

Crl.O.P.No.11968 of 2023

Mohammed Asif Ekbal

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
N-3, Muthialpet Police Station,
Chennai.

(Crime No.45 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 Crime
No.45 of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.C.V.Kumar

For Respondent : Mr.C.E.Pratap

Government Advocate (Crl.Side)



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CrI.O.P.No.11968 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.04.2023, in connection with Crime No.45 of 2023, registered under Section 174 Cr.P.C and later, altered for the alleged offences punishable under Sections 420 r/w 306 of IPC and 66D of Information Technology Act, on the file of the respondent, seeks bail.

2. The case of the prosecution as per the de-facto complainant, Shanthi is that her daughter Mahalakshmi, who was cheated in online trading ,had committed suicide by hanging. Based on her complaint, a case in Crime No.45 of 2023 was came to be registered under Section 174 Cr.P.C. During the course of investigation, it came to light that the accused, who have indulged in the online trading business, had cheated the victim/deceased to the tune of Rs.37,430/-, due to which, she had committed suicide by hanging. Thereby, the case has been altered to one under Sections 420 r/w 306 of IPC and 66D of Information Technology Act. Hence the case.



Crl.O.P.No.11968 of 2023

WEB COPY

3. Learned Counsel 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 petitioner is studying B.Com in the University of Kolkata and that his father is running a Xerox cum Internet cafe. He further submitted that the first accused, who had claimed to be the Advika Kapoor had sent e-mails to the victim from the Internet cafe run by the petitioner's father. He also submitted that even reading of the First Information Report would go to show that the de-facto complainant, who was separated from her husband, was having an affair with one Joseph and there could be a possibility of the victim to commit suicide on account of the conduct of her mother/de-facto complainant, whereas, the de-facto complainant had lodged a false complaint as against the petitioner as if the petitioner had abetted the victim to commit suicide by cheating her in online trading. He also submitted that there is no material to show that the petitioner has abetted the victim to commit suicide. He further submitted that the petitioner is in custody from 09.05.2023 and he is also ready to abide by any stringent conditions that may be imposed by this Court. Hence he prayed for grant of bail to the petitioner.



Crl.O.P.No.11968 of 2023

WEB COPY

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that petitioner, who is the resident of Kolkata, along with other accused had induced the de-facto complainant's daughter to invest in the online trading and cheated her to the tune of Rs.37,430/-, due to which the victim had committed suicide by hanging. He also submitted that investigation in this case is still in initial stage. Therefore, he vehemently 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 the learned counsel on either side and taking note of the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain condition.

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**



Crl.O.P.No.11968 of 2023

thousand only) with two sureties (out of which, one surety should be either father or mother of the petitioner and the other should be the local surety), each for a like sum to the satisfaction of the **learned XVI Metropolitan Magistrate, George Town, 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 petitioner shall report before the respondent Police everyday at 10.30a.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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Crl.O.P.No.11968 of 2023

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

01.06.2023

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To

1. The XVI Metropolitan Magistrate,
George Town, Chennai.
2. The Inspector of Police,
N-3, Muthialpet Police Station,
Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.11968 of 2023

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.11968 of 2023

01.06.2023