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CrI.O.P.No.12038 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

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

CrI.O.P.No.12038 of 2023

Vishal Kumar Khandelwal

... Petitioner

Vs.

State rep. by
The Inspector of Police
C-2, Elephant Gate Police Station,
Chennai.
Crime No.52 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in Crime
No.52 of 2023, pending on the file of the respondent herein.

For Petitioner : Mr.G.Vinodhkumr

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

For Intervenor : Mr.Ramesh Kumar Chopra

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 26.04.2023, for the offences punishable under Sections 408 and 420 of
IPC in Crime No.52 of 2023 on the file of the respondent police, seeks bail.



2. The case of the prosecution is that the defacto complainant was engaged in jewellery business and the 1st accused was an employee in his shop and he had gone to the native place. When the stock was verified, it was found that there was a shortage of 1.890 kilograms of gold and when the defacto complainant had confronted the accused, they have admitted to have taken away 1.890 Kilograms of gold and assured him that they would sell their properties and repay the amount, whereas, they have not done so. When the defacto complainant questioned the same, they threatened him. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner was previously working under the defacto complainant and due to financial dispute, a false complaint has been given by the defacto complainant. The petitioner was arrested at Rajasthan on 26.04.2023 and while he was in custody an amount of Rs.11 lakhs was taken from his family members and apart from that property documents has also been seized from him. He further submitted that the petitioner is in custody for more than 40 days and that the further custody of the petitioner may not be required in this case. Hence, he prayed for grant of bail to the petitioner.



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4. The learned Government Advocate (Criminal Side) for the respondent vehemently opposed to grant bail to the petitioner stating that the petitioner was employed in the shop belonging to the defacto complainant and during the period of employment, the petitioner had committed criminal breach of trust and taken away 1.890 Kilograms of gold from the shop of the defacto complainant. He further submitted that A3 has been arrested and A2 is still absconding. He also submitted that the petitioner had purchased several properties in his name in his home town.

5. The learned counsel appearing for the intervenor would submit that the petitioner had admitted to have taken the gold and he had agreed to repay the amount to the defacto complainant and he has not repaid the same. Hence, he prayed to dismiss the bail.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the FIR.



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7. Considering the above facts and circumstances of the case and the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

8. Accordingly, the **petitioner is directed to deposit the original title deed of an immovable property worth about Rs.15 lakhs, standing in his name or in the name of his relatives or friends, to the credit of Crime No.52 of 2023**, 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 No.VIII, 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 daily at 10.30 a.m., until further orders.**



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[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 abscond, a fresh FIR can be registered under Section 229A IPC.

06.06.2023

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To

1. The Metropolitan Magistrate No.VIII,
George Town, Chennai.
- 2.The Inspector of Police
C-2, Elephant Gate Police Station,
Chennai.
3. The Superintendent,
Central Prison, Chennai
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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