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Crl.O.P.No.13195 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

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

Crl.O.P.No.13195 of 2023
and Crl.M.P.No.8674 of 2023

1.Joshwa Regan
2.Chinnaraj

... Petitioners

Vs.

State rep by
The Inspector of Police
S-1, St. Thomas Mount Police Station,
Chennai.

Crime No.96 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in Crime No.96 of 2022 on the file
of the respondent police.

For Petitioners : M/s.S.Vennila

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

For Intervenor : Mr.B.Banu Chandar

ORDER



The petitioners, who were arrested and remanded to judicial custody on 19.05.2023 for the offences punishable under Sections 406 and 420 of IPC in Crime No.96 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant/ Merlin Joyal is that during 2020, the accused, who were running Jerpotech Environmental Equipment Company, had induced the defacto complainant stating that if he invests Rs.40 lakhs in their Company, he will be getting a profit of Rs.2 to 10 lakhs. Thereby, they induced the defacto complainant to pay Rs.40 lakhs, out of which, Rs.5 lakhs was paid through bank transaction and the balance amounts were paid through cash. Later, the accused have shown the fabricated work order and cheated the defacto complainant. Hence the case.

3.Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and a case of commercial transaction has been falsely projected as a case of cheating. He further submitted that even as per the complaint, the defacto complainant is stated to have deposited only Rs.5 lakhs through bank transaction and the rest of the amount were paid through cash. He further submitted that there is absolutely no materials to



show that the balance amount of Rs.35 lakhs was paid by them. He further submitted that even taking into consideration the entire allegations made in the complaint, it would only be a case of financial dispute and not a case of cheating. He also submitted that the petitioner is in custody from 19.05.2023, hence, he prayed for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the petitioners have induced the defacto complainant with assurance to induct him as a director of the Company and received Rs.40 lakhs and later, they have cheated him. He further submitted that only Rs.5 lakhs has been paid by way of bank transaction and the balance amount is stated to have been paid by cash. Hence, he opposed for grant of bail to the petitioners.

5. The learned counsel for the intervenor vehemently opposed for grant of bail to the petitioners stating that the defacto complainant, by believing the petitioners, had deposited Rs.40 lakhs to them. He further submitted that Rs.5 lakhs is stated to have been paid through bank transaction and the balance amount was paid through cash. He further submitted that the accused have also entered into a memorandum of understanding admitting the amount of Rs.40 lakhs. He further submitted



that the accused have also given a fabricated work order and cheated the defacto complainant.

6. At this juncture, the learned counsel for the petitioners submitted that without prejudice to their contentions, the petitioners are jointly ready and willing to deposit a sum of Rs.5,00,000/- to the credit of Crime No.96 of 2022. Hence, he prays for grant of bail to the petitioners.

7. Heard the learned Counsels and perused the materials available on record including the FIR.

8. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side, the period of incarceration undergone by the petitioners and also considering the fact that the petitioners are jointly ready to deposit a sum of Rs.5,00,000/- to the credit of crime number, this Court is inclined to grant of bail to the petitioners with certain conditions.

9. Accordingly, **the petitioners are jointly directed to deposit a sum of Rs.5,00,000/- to the credit of Crime No.96 of 2022**, without prejudice to their rights and contentions and on such deposit and production of proof



before the trial Court, the petitioners are ordered to be released on bail on their executing a separate 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 Judicial Magistrate No.I, Alandur**, 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 report before the respondent Police, everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders;

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

[d] the petitioners 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 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];***

[f] If the accused thereafter abscond, a fresh FIR



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can be registered under Section 229A IPC.

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10. Accordingly, this Criminal Original Petition is ordered and consequently, connected Miscellaneous Petition is closed.

21.06.2023

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To

1. The Judicial Magistrate No.I,
Alandur.
2. The Inspector of Police
S-1, St. Thomas Mount Police Station,
Chennai.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA,J.,



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