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Crl.O.P.Nos.12434 & 12460 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

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

Crl.O.P.Nos.12434 & 12460 of 2023

Lingadurai ... Petitioner in Crl.O.P.No.12434 of 2023

Dhinesh ... Petitioner in Crl.O.P.No.12460 of 2023

Vs.

State represented by
The Inspector of Police
Central Crime Branch,
Team V, EVR Salai,
Vepery, Chennai.
Crime No.249 of 2022

... Respondent in Crl.O.P.No.12434 of 2023

The Inspector of Police
CCB-I Police Station,
Chennai – 600 007.
Crime No.249 of 2022

... Respondent in Crl.O.P.No.12460 of 2023

PRAYER in Crl.O.P.No.12434 of 2023: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to enlarge the petitioner on bail in the case pending investigation in Crime No.249 of 2022 on the file of the respondent police.

PRAYER in Crl.O.P.No.12460 of 2023: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to enlarge the petitioner on bail concerned in Crime No.249 of 2022 pending on the file of the respondent police.



Crl.O.P.Nos.12434 & 12460 of 2023

For Petitioner in Crl.O.P.No.12434 of 2023 : Mr.S.Shankar

For Petitioner in Crl.O.P.No.12460 of 2023 : Mr.M.A.Gowtham for
M/s.Abinesh Babu

For Intervener in both Crl.O.Ps. : Mr.V.Chandrasekaran

For Respondent in both Crl.O.Ps. : Mr. C.E.Pratap
Government Advocate (Crl. Side)

COMMON ORDER

The petitioner in Crl.O.P.No.12434 of 2023, who was arrested and remanded to judicial custody on **08.05.2023** for the offence punishable under Sections 465, 468, 471 and 420 of IPC, in Crime No.249 of 2022 on the file of the respondent police, seeks bail.

The petitioner in Crl.O.P.No.12460 of 2023, who was arrested and remanded to judicial custody on **28.04.2023** for the offence punishable under Sections 465, 468, 471 and 420 of IPC, in Crime No.249 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Annadurai is that he is doing business and one Mariappan was incharge for his business. While so, the said Mariappan got married and he along with his



wife Nagarani were managing the business of the defacto complainant.

While being so, the said Mariappan along with his wife and others, induced the defato complainant and cheated him to the tune of Rs.85 lakhs. Hence, the case.

3. The learned counsel for the petitioner in Crl.O.P.No.12434 of 2023/A4 would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that even as per the complaint, the allegations are only as against A1 Mariappan and his wife and that the petitioner has been unnecessarily dragged into this case. He further submitted that the petitioner was earlier granted anticipatory bail by this Court in Crl.O.P.No.32167 of 2022 dated 08.02.2023. However, since the petitioner did not furnish the sureties within the time stipulated by this Court, the earlier order got lapsed and subsequently, the petitioner was arrested and that he has been suffering incarceration from 08.05.2023. He further submitted that the main accused/A1/Mariappan along with other accused had moved an application for anticipatory bail before this Court in Crl.O.P.No.32168 of 2022 and this Court by order dated 08.02.2023, had granted the same with a condition to deposit a sum of Rs.15 lakhs to the credit of Crime Number. He further submitted that there is absolutely no



financial transaction between the petitioner and the defacto complainant.

Hence, he prayed for grant of bail to the petitioner.

4. The learned counsel for the petitioner in Crl.O.P.No.12460 of 2023/A3 would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted the petitioner is the brother of A1 and other than the relationship, the petitioner has no role in the financial transaction of the defacto complainant and that he has been roped into this case since he happens to be the brother of the main accused/A1. He further submitted that the petitioner understands that A1 has been granted anticipatory bail by this Court with a condition to deposit some amount to the credit of crime number, however he has paid only part of the amount and he has sought for extension of time. He also submitted that the major part of investigation has been completed and the entire case of the prosecution is borne out by documents and that the petitioner has been suffering incarceration from 28.04.2023. Hence, he prayed for grant of bail to the petitioner.

5. The learned Government Advocate (Crl. Side) vehemently opposed for grant of bail to the petitioner stating that the petitioner in



Crl.O.P.No.12434 of 2023/A4 was employed by the main accused/A1 and the petitioner in Crl.O.P.No.12460 of 2023/A3 is the brother of the main accused/A1. A1 was appointed to manage the business affairs of the defacto complainant. While so, A1, taking advantage of the old age and illness of the defacto complainant, along with his wife and others, induced the defacto complainant and cheated him to the tune of Rs.80 lakhs and so on and that the investigation is pending.

6. Mr.V.Chandrasekaran, learned counsel for the intervenor vehemently opposed for grant of bail to the petitioners stating that the defacto complainant is aged about 70 years and he had appointed A1 to manage his business affairs whereas, A1 taking advantage of the old age and sickness of the defacto complainant, in collusion with his wife and other accused, induced him and cheated him to the tune of Rs.85 lakhs. He further submitted that though this Court had granted anticipatory bail to the main accused/A1 in Crl.O.P.No.32168 of 2023 dated 08.02.2023, he has not fully complied with the condition of depositing of amount to the credit of crime number.



7. At this juncture, Mr.M.A.Gowtham, learned counsel for the petitioner in Crl.O.P.No.12460 of 2023/A3 submitted that the non compliance of the condition by A1, may not be a ground for denial of bail to A3.

8. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl. Side) for the respondent police and perused the materials available on record including the FIR.

9. Considering the facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioners and also of the fact that the main accused/A1 has been granted anticipatory bail by this Court, this Court is inclined to grant of bail to the petitioners with certain conditions.

10. Accordingly, the petitioner in Crl.O.P.No.12434 of 2023 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 Special Judge for Trial of Cases under CCB and CBCID, Egmore, Chennai, and;**



the petitioner in Crl.O.P.No.12460 of 2023 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 **Special Court for cases related to CCB & CBCID (Metro), Egmore** 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., 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



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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.

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To

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1. Special Judge for Trial of Cases under CCB and CBCID,
Egmore, Chennai
2. The Special Court for cases related to CCB & CBCID (Metro),
Egmore
3. The Inspector of Police
Central Crime Branch,
Team V, EVR Salai,
Vepery, Chennai.
4. The Inspector of Police
CCB-I Police Station,
Chennai – 600 007.
5. The Central Prison, Puzhal, Chennai
6. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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