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Crl.O.P.Nos.12838 & 12840 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

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

Crl.O.P.Nos.12838 & 12840 of 2023

Vignesh

... Petitioner in Crl.O.P.No.12838 of 2023

Saravanan

... Petitioner in Crl.O.P.No.12840 of 2023

Vs.

The State represented by,
The Inspector of Police,
Chinnasalem Police Station,
Now transfer to,
District Crime Branch,
Kallakurichi District.

(Crime No.321 of 2019).

... Respondent in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to grant bail to the petitioner in Crime No.321 of 2019 pending investigation on the file of respondent Police.

For Petitioner : Mr.V.Gunasekar

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

COMMON ORDER



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The petitioners, who were arrested and remanded to judicial custody on 28.04.2023, for the offence punishable under Sections 120(B), 379, 403, 406, 420 of IPC, in connection with Crime No.321 of 2019, registered on the file of the respondent Police, seek bail.

2. The case of the prosecution is that the *defacto* complainant, Regional Manager, M/s. National Collateral Management Service Limited (NCML), has filed a complaint against 35 persons including the present petitioners before the respondent police on the ground that they had cheated the company by clandestinely selling the goods kept under their control in the godowns, owned by the petitioners which was given as collateral security. On the basis of the complaint given by the *defacto* complainant, a case has been registered in Crime No.321 of 2019 for the offence punishable under Sections 120(B), 379, 403 406 , 420 of IPC against the accused. Hence the case.

3. Learned Counsel for the petitioners submitted that the petitioners, who are arrayed as A10 & A30 respectively, are innocent persons and they have been falsely implicated in this case. He further submitted that the allegation against the petitioners is that they have sold the goods which



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were pledged as collateral security with M/s. National Collateral Management Service Limited. He also submitted that the petitioners are coolie laborers working under A1, who is the mill owner and the said A1 in collusion with the accused A31 to A35, who are the Managers of NCML, have misused the petitioners' names and the petitioners had innocently believed their owner and signed all the papers. He also submitted that the petitioners have nothing to do with the alleged offence and they are in custody from 28.04.2023. He further submitted that the similarly placed co-accused in this case has been granted anticipatory bail by this Court in Crl.O.P.No.10736 of 2023 vide order dated 18.05.2023 and also submitted that the petitioners are ready to abide by any stringent conditions that may be imposed by this Court, hence, he prayed to grant bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners are arrayed as A10 & A30 respectively. He further submitted that the petitioners along with other accused have obtained loans to the tune of Rs.27,71,000/- and to the tune of Rs.1,23,16,000/-, by way of hypothecating the groundnut godowns as collateral security and the accused without the knowledge of the de-facto



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complainant's company, have clandestinely sold the goods and cheated the company. He also submitted that the investigation in this case is pending and further submitted that the respondent Police had verified and found that the petitioners are agricultural coolies working under A1. However, he opposed for grant of bail to the petitioners.

5. Heard the learned Counsel for the petitioners 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 fact that the petitioners' names were misused by the other accused and they had been only made as a scapegoat in this transaction and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain condition.

7. Accordingly, the petitioners are ordered to be released on bail on their executing separate bond each for a sum of **Rs.10,000/- (Rupees Ten**



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thousand only) with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate - II, Kallakurichi**, 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 Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*;

A.D.JAGADISH CHANDIRA.,J.



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

15.06.2023

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To

1. The Judicial Magistrate - II,
Kallakurichi.
2. The District Crime Branch,
Kallakurichi District.
3. The Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras.

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