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Crl.O.P.No.12901 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

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

Crl.O.P.No.12901 of 2023

Subramani

... Petitioner

Vs.

State through
The Sub Inspector of Police
CCB-I Police Station
Chennai-CCB
in Crime No.107 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.107 of 2022 on the file
of the respondent police.

For Petitioner : Mr.T.Mohan, Senior Counsel
for Mr.A.Haja Mohideen

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



ORDER

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The petitioner, who was arrested and remanded to judicial custody on 09.05.2023 for the offences punishable under **Sections 406 and 420 IPC, in Crime No.107 of 2022** on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner and the defacto complainant had earlier employed in Nigeria and they were friends for 18 years. While so, the petitioner pretended himself as a Saint and he will perform Bhajans and Poojas and developed belief on Sai Baba and he also got well acquainted with the family members of the defacto complainant. He further induced the defacto complainant that he would be able to forecast about the future of the family members of the defacto complainant and thereby, the defacto complainant believed him and created trust on him. Taking advantage of the situation, the petitioner induced the defacto complainant to donate money for charitable purpose and believing the same, the defacto complainant, on various occasions has sent Rs.2.5 Crores to the petitioner. Thereafter, it came to light that the petitioner is doing black magic and when the defacto complainant asked the petitioner to return his money, he refused to return the same. The further allegation is that the petitioner has spent the money received from the defacto complainant for the educational expenses of his daughter. Hence, the case.



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3. The learned Senior counsel for the petitioner would submit that the petitioner is an innocent and a false and fabricated complaint has been made against the petitioner. Admittedly, there was some money transaction between the petitioner and the defacto complainant since they had been friends for 18 years and that based on the instructions of the defacto complainant, the petitioner had received some amounts in to his account. However, as per the directions of the defacto complainant, the petitioner had sent the amounts to various charitable organization whereas, now the defacto complainant has given a false complaint against the petitioner as if, he committed criminal breach of trust and also cheated him. He would submit that the petitioner the is a man of means and the respondent while conducting search in the house of the petitioner, have seized FDR receipts to the tune of Rs.44 lakhs which are relating several years prior to the alleged transaction. He would reiterate that a case of financial transaction has been exaggerated and a false complaint has been given against the petitioner and that the petitioner has been languishing in jail from 09.05.2023. He would further submit that the further custodial interrogation of the petitioner may not be required since the entire prosecution case is borne out by records. Hence, he prayed for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.



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5. The learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed for grant of bail to the petitioner stating that the accused by taking advantage of the friendship of the defacto complainant, induced him stating that he would be able to do charitable activities on behalf of the defacto complainant and believing the same, the defacto complainant paid amounts to the petitioner to the tune of Rs.2,00,64,392/- from the year 2014 to 2019, whereas the petitioner has cheated the defacto complainant. He further submitted that FDR receipts to the tune of Rs.44 lakhs have been recovered from the house of the petitioner and as per the earlier order passed by this Court in Crl.O.P.No.29431 of 2022 dated 09.02.2023 while dismissing the anticipatory bail petition filed by the petitioner, the FDR receipts for Rs.44 lakhs have been deposited before the Court to the credit of Crime Number.

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

6. Taking into consideration the facts and circumstances of the



case, the submissions made by the learned counsel on either side and considering the period of incarceration undergone by the petitioner and also of the fact that the FDRs to the tune of Rs.44 lakhs which were recovered from the petitioner, have been deposited to the credit of crime number, this Court is inclined to grant of bail to the petitioner with certain conditions.

7. Accordingly, 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 CCB & CBCID, Egmore, 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. for a period of three weeks and thereafter, every Saturday at 10.30 a.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,



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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 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 can be registered under Section 229A IPC.

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To

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1. The CCB & CBCID, Egmore, Chennai
2. The Sub Inspector of Police
CCB-I Police Station
Chennai-CCB
3. The Central Jail, Puzhal, Chennai
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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