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Crl.O.P.No.13273 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

CORAM

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

Crl.O.P.No.13273 of 2023

Thoupiq Mohamed

... Petitioner

Vs.

The State
Rep. by the Inspector of Police
Nagapattinam Town Police Station
Nagapattinam
(Crime No.163 of 2023)
Respondent

...

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail concerned in Crime No.163 of 2023
on the file of the respondent.

For Petitioner : Mr.A.Praveen Kumar

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



ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.05.2023 for the offence punishable under **Sections 406, 420, 120(b) of IPC, Sections 3 and 5 of TNPID Act and Sections 21(1), 21(2), 21(3), 23 and 25 Banning of Unregulated Deposit Schemes Act, 2019, in Crime No.163 of 2023** on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Fathima Nisha Begum is that on 05.03.2022, the 1st accused/the petitioner herein, persuaded the defacto complainant to invest a sum of Rs.1,76,000/- in the company namely Nilaapay owned by the 1st accused and promised to pay a monthly amount of Rs.9,000/- / per one lakh fro 36 months. Initially, few instalments were paid, however, subsequently, failed to do so. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a hypothetical complaint has been given by the defacto complainant. He would further submit that he is running a business and the petitioner has been regularly paying money to the other depositors and other than the complaint of the defacto complainant, there is absolutely no other complaint against the petitioner. He would further submit



that the co-accused in this case has been granted bail by this Court in Crl.O.P.No.11804 of 2023 dated 24.05.2023 and the petitioner has been languishing in jail from 09.05.2023 and that he is ready to abide by any stringent conditions as may be directed by this Court .

4. The respondent has filed a detailed counter.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed for grant of bail to the petitioner stating that the petitioner along with other accused cheated the defacto complainant to the tune of Rs.1,76,000/-. He further submitted that the petitioner has got 1 previous case registered by the District Crime Branch, Nagapattinam in Crime No.4 of 2023.

6. In reply, the learned counsel for the petitioner would submit that the amount involved in this case is Rs.1,36,000/- and the petitioner has already settled the same.

7. 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 and the counter.



8. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner and also of the fact that the co-accused has been granted anticipatory bail by this Court, this Court is inclined to grant of bail to the petitioner with certain conditions.

9. 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 Special Court for Exclusive Trial of Cases under the TNPID Act, 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 two weeks and thereafter, every Saturday at 10.30 a.m., until further orders.

[c] the petitioner shall not abscond either during



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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 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.

23.06.2023

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To

1. The Special Court for Exclusive Trial of Cases
under the TNPID Act , Chennai
- 2.The Inspector of Police
Nagapattinam Town Police Station
Nagapattinam
3. The Central Prison, Puzhal, Chennai
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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