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Crl.O.P.No.13532 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

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

Crl.O.P.No.13532 of 2023

Nishanth Sakthivel

... Petitioner

Vs.

Inspector of Police,
Central Crime Branch-I, (CCB-I),
Office of the Commissioner of Police,
EVR Salai, Vepery, Chennai.
(Crime No.276 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to grant bail to the petitioner in Crime No.276 of 2022 pending on
the file of the respondent police.

For Petitioner : Mr.Gowriashokan

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.05.2023 for the offences punishable under **Sections 406, 420 r/w Section 120 (B) IPC, in Crime No.276 of 2022** on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the de-facto complainant is the Manager of New Bharath Steel Pvt. Ltd and they engaged in the business of steel TMT rods in whole sale as well as retail basis. It is alleged that the petitioner herein/A2 is working as Managing Director in A1's company. In the month of November 2021, through A4, A1 who is the CEO of Trisul Steel and TMT bars got acquainted with the de-facto complainant. Thereafter, A4 informed the de-facto complainant that they are going to start a new company in the name and style of Sakthi Groups at Naidupet, Andhra Pradesh. It is also that the A4 and A1 persuaded the de-facto complainant saying that they are going to produce TMT bars and supply all over Tamil Nadu. They also further insisted the de-facto complainant to pay a sum of Rs.1,00,00,000/- and they will return the money within a week after opening of the production plant. Believing the same the de-facto complainant transferred one Crore rupees to Trisul Steel Pvt Ltd and later sent amounts to the tune of Rs.3 Crores to the above said Company for supply of iron rods.



After receiving the amount, the accused supplied iron rods worth about Rs.1,73,36,114/- to the de-facto complainant and failed to supply the balance iron rods worth about Rs.1,28,76,377/- and thus committed cheating. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given against him. He would submit that admittedly it is a case of business transaction. Even as per the prosecution, the defacto complainant is said to have paid an amount of more than Rs.3 Crores for supplying of TMT Bars but, the petitioner's company had supplied the materials only to the tune of Rs.1,73,36,114/-. Instead of proceeding under the commercial law, the defacto complainant is attempting to arm twist the petitioner and by police action, he is attempting to recover the money. He further submitted that the petitioner has been languishing in jail for more than one month from 12.05.2023 and the major part of investigation is also completed. He further submitted that the main accused/A1 has been released on statutory bail by the lower Court. A3 and A4 have been released on bail by this Court in Crl.O.P.No.11996 of 2023 by order dated 25.05.2023 and Crl.O.P.No.7982 of 2023 dated 17.04.2023. Hence, he prayed for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed for grant of bail to the petitioner stating that the petitioner is arrayed as A2 and he is the Managing Director of A1's company. The accused have induced the defacto complainant that they would supply TMT Bars and believing the same, the defacto complainant had paid more than Rs.3 Crores to them, whereas the accused had supplied materials only to the tune of Rs.1,73,36,114/- and failed to supply the balance materials and thereby, cheated the defacto complainant. However, he would submit that A3 and A4 have been granted bail by this Court.

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. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side and also considering the period of incarceration undergone by the petitioner and the fact that the co-accused/A3 and A4 have been granted bail by this Court, 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 Metropolitan Magistrate for Exclusive Trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro, 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 everyday 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, 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]***;



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

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To

1. The Metropolitan Magistrate, Exclusive Trial of CCB Cases
(relating to cheating cases in Chennai) and CBCID Metro, Egmore,
Chennai.
2. The Inspector of Police,
Central Crime Branch-I, (CCB-I),
Office of the Commissioner of Police,
EVR Salai, Vepery, Chennai.
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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