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Crl.M.P.No.15019 of 2023 in Crl.A.No.108 of 2023

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RESERVED ON : 08.11.2023
PRONOUNCED ON : 20.11.2023

M.NIRMAL KUMAR., J.

This Criminal Miscellaneous Petition is filed for extension of time atleast two months to comply with the condition imposed in Crl.M.P.No.1402 of 2023 in Crl.A.No.108 of 2023, *vide* order, dated 13.06.2023.

2.This Court on 10.10.2023 passed the following order:

“This petition is filed seeking extension of time to comply with the condition imposed by this Court in Crl.M.P.No.1402 of 2023 in Crl.A.No.108 of 2023 by order dated 13.06.2023.

2.It is seen that the Trial Court by judgment dated 27.12.2022 in C.C.No.8 of 2019 convicted the petitioner/A7 and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.1,30,00,000/- for the offence under Section 420 IPC, three years rigorous imprisonment and to pay a fine of Rs.1,30,00,000/- for the offence under Section 406 IPC, ten years rigorous imprisonment and to pay a fine of Rs.40,30,000/- for the offence under Section 5 of TNPID Act, in total the petitioner



was directed to pay a fine of Rs.3,00,30,000/- from which compensation to be paid to the victims in the case. This Court considering the submissions made granted the relief of interim suspension of sentence and granted bail to the petitioner for a period of three months and one of the condition imposed is that the petitioner is directed to pay 20% out of the fine amount to the credit of C.C.No.8 of 2019 before the Trial Court.

3.Today, there is no representation on behalf of the petitioner.

4.Learned Additional Public Prosecutor submits that pursuant to the order passed by this Court, the petitioner was let out on bail but he has paid only a sum of Rs.1,00,000/- and the balance of Rs.59,06,000/- is yet to be paid. He would submit that in compliance of the order passed by this Court, the petitioner was let out on bail on 13.07.2023 and the three months period expires on 13.10.2023. He further submits that in the meanwhile steps were taken to find out the whereabouts of the petitioner/accused for noncompliance of the order and if by any reason the balance amount has not paid and the petitioner/accused failed to surrender, appropriate steps would be taken by the respondent police.

5.Post the matter on 31.10.2023 for reporting further status.”



3.In continuation and conjunction to the above order, this Court is passing the following order.

4.The learned Additional Public Prosecutor appearing for the respondent Police filed status report, dated 31.10.2023 submitting that the petitioner/A7 in C.C.No.8 of 2019 was convicted by the Special Judge, Special Court under TNPID Act, Coimbatore *vide* judgment, dated 27.07.2022, against which, he preferred appeal before this Court in Crl.A.No.198 of 2023, in which, filed a petition for suspension of sentence in Crl.M.P.No.1402 of 2023 in Crl.A.No.108 of 2023. This Court *vide* order, dated 13.06.2023 granted interim bail suspending the sentence with certain conditions. The paragraph Nos.8 & 9 of the order reads as follows:

“8.In view of the submission that the petitioner/A7 will settle the dues to the depositors within a period of 3 months, this Court is inclined to grant interim suspension of sentence imposed on the petitioner for a period of three months.

9.Accordingly, the relief of interim suspension of sentence and bail is granted to the petitioner/A7 for a period of three months from the date of receipt of copy of this order. The petitioner is directed to pay 20% out of the fine amount to the credit of C.C.No.8 of 2019 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore within one



month from the date of release from the prison.”

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The petitioner was directed to pay 20% of the fine amount within one month from the date of release from the prison, but the petitioner only paid Rs.1,00,000/- before the learned Special Judge, Special Court under TNPID Act, Coimbatore on 13.07.2023 and the remaining amount of Rs.59,06,000/- so far not paid. In this regard, the Investigating Officer filed a report before the learned Special Judge, Special Court under TNPID Act, Coimbatore on 02.09.2023. In such circumstances, the present Criminal Miscellaneous Petition for extension of time filed before this Court not to be entertained. The Investigating Officer took sustained efforts to find out whereabouts of the petitioner forming a special team. The team visited the residential address at D.No.3, Iykiya Nilaiyam, Planiappa Layout, Ramamoorthy Road, Selvapuram, Coimbatore where it was informed the petitioner vacated the house four years back. Further, visited another residential address No.S-027-Sree Daksha Sanshray Apartment, Thondamuthur Road, Vadavalli, Coimbatore, here also, it was informed that the petitioner was not staying in the said address. The special team enquired the office bearers of the residents association and received a letter in this regard. The petitioner used eleven phone numbers, the CDR report are yet to be received. The petitioner



giving false promise successfully earlier dragged on the progress of the investigation, trial and now, the appeal.

5.The petitioner in course of hearings projected some properties and can settle the entire dues of the depositors, but on verification, it was found that the title deed of the properties already deposited with Gokulam Chit & Finance Private Limited and Shriram Chits Private Limited encumbered since there was default in making payment to the chits. Now, the petitioner has got no un-encumbered valuable properties to settle the dues to the depositors. The petitioner is making false representation only to escape from the liability in setting the dues to the depositors. On 01.11.2023, the petitioner filed affidavit and on 08.11.2023, the petitioner filed Additional Typed Set. The paragraph Nos.5 to 7 of the affidavit, dated 01.11.2023 reads as follows:

“5.I submit that by seeing my plight one of my well-wisher expressed her desire to sell the property and handover the consideration amount to me herein. They are:

(i) Mrs Baghirathi D/o Padmavathy is ready to offering his immovable property situated at SF No 327/7, No 1 Nayakanpalayam Village, Periyanyankanpalayan, Coimbatore District measuring to an extend of 3.56 Acres whose guideline value is around Rs 24 Lakhs, the market value



of the property is Rs 55 Lakhs.

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6. I submit that on seeing my plight some of his friends have expressed their desire to purchase my property. They are:

(i) R.Balachandran S/o Ramdoss expressed his desire to purchase the property belongs to the petitioner situated at SF No 341 Singanallur, Pattinapudur Village, Coimbatore District measuring to an extend of 27 Cents along with the lien.

(ii) Mr Abdul Wahab S/o Abdulsalam expressed his desire to purchase the property belongs to the petitioner situated at

e) Site No 580, SF No 210, 211/2, 212, 44 & 49 Industrial Estate, Kittampalayam Village, Annur Tauk, Coimbatore District measuring to an extend of 13,095 Sq Ft along with the lien.

f) SF No 75/1, 74/D1, 76/2A Anamalai, Thensangapalayam, Coimbatore District purchased by way of Sale Deed Doc No 1276,1277,1273 & 1279 of 2017 measuring to an extend of 10,080 Sq Ft.

7. I state that the property mentioned herein below which belongs to me is free from all encumbrance. They are:

e) No 148/1, 149/1, 149/2, Site No 254 situated at Paruvai Village, Sulur Taluk, Coimbatore District measuring to an extend of 2.27 cents.

f) SF No 75/1, 74/D1, 76/2A Anamalai,



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Thensangapalayam, Coimbatore District purchased by way of Sale Deed Doc No 1271, 1272, 1273, 1274 & 1275 of 2017 measuring to an extend of 13,288 Sq Ft.”

6.In paragraph No.5, the petitioner referred to one Baghirathi, who is ready to offer his immovable property, the market value of the property is around Rs.55 lakhs. In paragraph No.6, he referred that some of his friends are willing to purchase some properties of the petitioner and the sale consideration can be credited to the account of C.C.No.8 of 2019. In paragraph No.7, he refers two properties measuring to the extent of 2.27 cents and 13,288 sq.ft which according to the petitioner is unencumbered. If these properties are sold and realized, the entire dues can be settled to the depositors. It is further submitted on behalf of the petitioner that the amount of Rs.4,00,000/- deposited in C.C.No.8 of 2019 and Rs.6,00,000/- will be paid before 30th December, 2023, the balance amount can be realized after selling the properties. In any event, if the petitioner is given extension of time and interim bail, the entire dues can be settled by the month of December, 2023 and the issue can be given quites.



7.The learned Additional Public Prosecutor opposed the same and submitted that the petitioner's past conduct would prove that he is not complying with his undertakings, it is only an yet another ploy to delay the process of law.

8.On 31.10.2023, the learned Additional Public Prosecutor filed status report of the respondent Police narrating the sequence of events and the steps taken to secure the petitioner. On 08.11.2023, another status report from the respondent Police as well as competent authority filed. The relevant portion of the status report, dated 08.11.2023 is as follows:

“6). It is submitted that, after completion of the investigation, the investigating officer had filed Final report before the TNPID Court, Coimbatore on 01.12.2019 .The Petitioner/ accused A7 and other accused were defaulted amount is Rs. 2,97,96,300/- to 65 depositors. This case was taken on file in CC.No. 08/2019 on 31.12.2019 by the Special Judge, TNPID Court Coimbatore.

7). It is submitted that, after completion of trial proceedings, this case was ended in conviction on 27.12.2022 and the accused A7 Jagadeesan found guilty offence and sentence 10 years Rigorous Imprisonment and fined Rs. 3,00,30,000/- by the TNPID Court.

8). It is submitted that, the Petitioner/ Appellant state



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that his petition dated.29.04.2022, that, 24 properties list, which has been given to the CA/DRO, Coimbatore for taken steps to attachment but the CA/DRO has sent same to the investigating officer and verify Encumbrance. The investigating officer has verify documents it is ascertained that most of the immovable properties were mortgaged by the Sree Gogulam Chit funds and Sree Ram Chit funds pvt, Ltd, Coimbatore.

9). It is submitted that, the Petitioner/ Appellant has paid Rs. 25,00,000/- on the account of CA/DRO, Coimbatore and also an amount of Rs. 12,47,480/- the investigating officer has been recovered from the borrowers to remitted the CA/DRO, Account and the same was made fixed deposit at SBI, Oppanakara street, Branch, Coimbatore, regarding this case. Now, the above said fixed deposit amount is available with interest of Rs. 49,15,135/- as on 01.12.2022.

10). It is submitted that, in the mean time the investigating officer along with the CA/DRO, to conducted the Joint field inspection at Thensengampalayam Village, Coimbatore in 9 immovable properties vide Document Nos. 1271/2017 to 1279/2017 and the investigating officer has sent Proposal to the Government for Ad-interim attachment through the ADGP, EOW, Chennai on 30.05.2023 and the same is pending from Government.

11). It is submitted that, the appellant/accused have joined Sree Gokulam Chit & Finanance Co (P) Ltd and he already taken 25 Lakhs chit and Two 50 Lakhs chits during the



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Crl.M.P.No.15019 of 2023 in Crl.A.No.108 of 2023

period of 2016-2017. The chits are terminated in the year of 2018 and he did not paid any amount for these chits and pledged his Immovable properties Documents vide.Nos. 1271/2017,1272/2017, 1273/2017 and 1275/2017 as security. Now the total liability of the said chits amount is Rs. 1,59,25,450/- as on 01.04.2023.

12). Further it is submitted that, the appellant/accused have joined Shiriram Chits India (P) Ltd and he already taken Two 25 Lakhs chits in the year of 2017, he had pledged his Immovable properties Documents vide.Nos. 1276/2017,1277/2017, 1278/2017 and 1279/2017 as mortgaged vide Document No. 2662/2017 dated; 16.03.2017. Now the total liability of the said chits amount is Rs. 68,07,370/- as on 15.04.2023.

13). It is submitted that, the Petitioner/ Appellant has stated in para 6(i) the property situated at SF.No. 341 Pattanampudur Village measuring to an extent of 27 Cents vide document No. 3994/2017, which was already mortgaged Rs. 25,00,000/- by Sree Gogulam Chit & Finance Co (P),Ltd., vide MOD No. 6049/2017.

14). It is submitted that, the Petitioner/ Appellant has stated in para 6(e) the property situated at SF.No. 210,211/2,212,44 & 49 in site No. 580 at Kittampalayam Village measuring to an extent of 13,095 Sq. Fts vide document No. 2872/2017, which was already mortgaged Rs. 25,00,000/- by Sree Gogulam Chit & Finance Co(P),Ltd., vide MOD No.



3792/2017.”

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9.The competent authority filed status report, dated 08.11.2023, the relevant portion is extracted as follows:

“4) It is submitted that, in this case, the petitioner/ Appellant in his petition dated.29.04.2022 has stated that a list 24 properties were given to the Competent Authority and District Revenue officer, Coimbatore for attachment and the said list of properties have been sent to the investigating officer to verify the Encumbrance.

5) is submitted that, in the mean time, 9 immovable properties in the name of A7-Jagadeeswaran out of 24 properties the investigating officer along with the District Revenue officer conducted the Joint field inspection on 11.08.2022 at Thensengampalayam Village, Coimbatore. Based on Joint inspection report, (vide. Ref.Na. Ka. No. 17571/2018 / 1-1, Dated: 13.10.2022), the investigating officer has sent Proposals to the Government for Ad-interim attachment through the ADGP, EOW, Chennai vide. Ref. No. C.No.394/DSP/EOW/CBE/2023. Dated: 30.05.2023 and the same is pending from the Government.

6) It is submitted that, on verification by the investigating officer, it is ascertained that, most of the remaining immovable properties mentioned by the petitioner for attachment were mortgaged by the petitioner in Sree Gogula Jeyam Chit funds



and Sree Ram Chit funds pvt, Ltd, Coimbatore for loan and are with encumbrance.

7) It is submitted that, as per the provisions of the TNPID Act, 1997 the process of ad-interim attachment is initiated by Economic offence Wing and Government will pass G.O, once the G.O is issued, Competent Authority will take necessary steps to file Original application in TNPID Special court to make interim attachment as absolute and to sell the properties through public auction.”

10.The learned Additional Public Prosecutor referred to the earlier order passed by this Court in W.P.No.12219 of 2022, dated 25.05.2022 and submitted that on a similar representation, this Court gave reasonable time for settlement despite the trial (C.C.No.8 of 2019) was at the penultimate stage. This is, of course, prior to rendering the judgment in C.C.No.8 of 2019. This Writ Petition is referred to the limited extent to highlight the petitioner's conduct.

11.Thus, from the above narration, it is clear that the petitioner's submission would look rosy but in reality, the depositors are yet to see the colour of the coin. The petitioner to settle 65 depositors, around Rs.2,97,96,300/-, but except for a meager amount which could be realized



during investigation and after conviction, nothing more, the petitioner initially paid Rs.1,00,000/-, thereafter, Rs.4,00,000/- and now, showing interest to pay Rs.6,00,000/- by 30th December, 2023, would not be sufficient and will not be in compliance to the order of this Court.

12.Though this Court while granting interim bail suspending the sentence, directed the petitioner to pay 20% of the fine amount, this order came to be passed based on the submission of the petitioner that the entire depositors can be settled within three months. This order came to be passed on 13.06.2023. The three months time lapsed much before, but no substantial progress or inclination shown any payment in this regard.

13.In view of the above, this Court is not inclined to grant extension of time to the petitioner. Accordingly, this Criminal Miscellaneous Petition stands dismissed with the following directions.

(i)The Deputy Superintendent of Police, Economic Offence Wing-II Unit, Coimbatore/respondent Police to secure the petitioner without further delay and confine him to prison to undergo the rest of the sentence as per his conviction, dated 27.12.2022.



Crl.M.P.No.15019 of 2023 in Crl.A.No.108 of 2023

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(ii)The Competent Authority/District Revenue Officer, Coimbatore to take immediate/effective efforts to attach the properties of the petitioner. The respondent Police in coordination with the competent authority to take steps to file appropriate petition before the concerned Court to salvage and recover the amount from the petitioner's properties and financial institutions.

20.11.2023

vv2

Copy To:

- 1.The Special Court under TNPID Act,
Coimbatore.
- 2.The Competent Authority/The District Revenue Officer,
Coimbatore.



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Crl.M.P.No.15019 of 2023 in Crl.A.No.108 of 2023

M.NIRMAL KUMAR., J.

vv2

PRE-DELIVERY ORDER IN
Crl.M.P.No.15019 of 2023 in
Crl.A.No.108 of 2023

20.11.2023