Crl.O.P.No.23427 of 2023

C.V.KARTHIKEYAN, J.

The petitioner/A25 who was arrested and remanded to judicial custody on 26.05.2023, registered by the respondent Police for the offences under Sections 120B, 420, 406 of IPC and Sections 3 and 5 of the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS AC) and Section 58(B)(1) of Reserve Bank of India Act and subsequently, altered to Sections 420, 409, 120(b), 34, 109 of IPC r/w Sections 3, 5, 21(1), 21(2), 21(3), 23, 25 of BUDS Act and Sections 58(B) of RBI Act, 1934 and Section 5 of TNPID Act, in Crime No.7 of 2022, seeks bail.

2.Even before proceeding further, it must be stated that the respondent/prosecution has filed the charge sheet and it is informed that the jurisdictional Court/Special Court for TNPID Act cases, Chennai, had taken cognizance of the charge sheet as C.C.No.09 of 2023.

3.The learned counsel for the petitioner stated that the petitioner herein was the Manager of Ranipet Branch of Company called M/s Aarudhra Gold Trading Private Limited. The Directors of the said company are arrayed as A9 and A15, who are actually spouses and who are now enjoying life at Dubai. The other accused had been secured and the present petitioner is one of the accused who had been remanded to custody and now seeks bail.

4.The learned counsel stated that four of the Directors had been granted bail consequent to the fact that the final report had not been filed within the stipulated period and therefore, taking into consideration the provisions under Section 167 Cr.P.C., the trial Court had granted bail to those Directors. It is also contended by the learned counsel that one of the other accused who stood on the same footing namely Rooso S/o.Sridharan had also been granted bail by the trial Court in Crl.M.P.No.82 of 2023 by an order dated 12.01.2023.

5.The learned counsel stated that parity should also be observed sofar as this petitioner is concerned. The learned counsel also placed reliance on the order of the learned Single Judge of this Court in *Crl.O.P.No.20793 of 2023*, *M.Eswarappan Vs. The State rep by the Deputy Superintendent of Police, Economic Offences Wing II*, wherein, a learned Single Judge of this Court by an order dated *11.09.2023* had placed reliance on the observations of the Hon'ble Supreme Court in the case of *Ritu Chhabaria Vs. Union of India and others* in *2023 Vol.II Madras Weekly Notes Crl 1* and held that filing of an incomplete charge sheet would not deprive the right of the accused persons. The learned Single Judge had therefore granted bail to the aforesaid case.

6.It is stated that even in the instant case, an incomplete charge sheet has been originally filed and therefore, the petitioner was not able to get the benefit of being released on statutory bail under Section 167 Cr.P.C. But, the circumstances have now changed and final report had been filed and it had been taken cognizance by the learned trial Judge in C.C.No.9 of 2023. The distinguishing factor between the petitioner and Rooso, for whom, the bail was granted, is that the said Rooso, had actually invested a sum of Rs.6,22,00,00,000/- on various dates with the said Company/A1. He could therefore be termed not only as an Advisor to the Director but also one of the victims. It is the allegation of the prosecution as against the accused that he had canvassed money but the primary consideration was that having invested, a different criteria should be shown towards him. Primarily, on that particular ground, the bail is granted to that particular petitioner. The allegation against this petitioner is that he had personally canvassed and collected nearly more than Rs.61 crores from about 4700 and more investors. It is stated that therefore the petitioner herein who claims innocence as being Manager, has been directly involved in the larger offence of attracting investments and by this act of attractive investment by various other accused including the petitioner, A1/Aarudhra Gold Trading Private Limited had been the beneficiary of an investment of nearly about Rs.2438 crores from more than 109000 investors.

7. Substantial investigation will have to be done and even if the offence could be compoundable at some stage, it requires a deep and careful examination of the accounts and also the amounts available with the said company for the amounts to be returned. The petitioner having played a front role luring more than 4700 investors to deposit more than Rs.61 crores, certainly has to await the out come of further progress in the trial. It is also contended on behalf of the respondent that two of the Directors namely A9 and A15 are in Dubai and this further complicates the issue sofar as the petitioner is concerned.

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8. The learned counsel for the petitioner stated that A19, A22, A29, A36, A38 and A39 have been granted bail. But direct allegations against the petitioner have been extracted above and it is quite serious. The household of more than 4700 individuals had suffered loss owing to the allurements of the petitioner herein inviting them to invest their money of more than Rs.61 crores in the company. Therefore, this is a directly distinguishing factors sofar as the bail application of Rooso is concerned.

9. Hence, this Criminal Original Petition stands dismissed.

01.11.2023

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