



Crl.OP(MD)No.17811 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 09/11/2023

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.17811 of 2023

Narayanasamy

... Petitioner/ Accused 9

Vs.

The Inspector of Police,
Economic Offences Wing-II,
Madurai District.
(Crime No.3 of 2023)

... Respondent/ Complainant

For Petitioner : Mr.T.ANTONY ARUL RAJ, Advocate

For Respondent : Mr.S.RAVI
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C.

PRAYER:-For Anticipatory Bail in Crime No.03 of 2023 on the file of the Respondent Police.

ORDER: The Court made the following order:-

The petitioner/ A9 apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 406, 420 and 34 of IPC and section 5 of Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, in Crime No.3 of 2023, on the file of the respondent police, seeking anticipatory bail.



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2.The case of the prosecution as per the defacto complainant's version is that one Chellammal, Narayanasamy and Manivannan approached him, on knowing that they are having money, informed that Neomax Properties Private Limited is functioning at Madurai as Head Quarters. In the above said company one Kamalakannan, Balasubramanian and Veerasakthi and others are directors. According to them, they were the agents. They informed him that they also have invested money and benefited. If money is deposited, it will become double in 2 ½ years. They have also stated that they are offering high interest rate. So he and his mother were taken by the above said Chellammal, Narayanasamy to the Head quarters of the said company. At that time, one Kamalakannan, Balasubramanian and Veerasakthi and others were present. They have shown some video clippings and explained various schemes introduced by them. They have also promised that they offer interest at the rate of 12% to 30%. He was also informed that several branches are functioning in several places and other companies also conduct this business. And also informed that they purchased various properties in various villages and after forming lay out and developing the same they used to sell the properties, the money will be returned to him with double amount. For acknowledgement of the money, they are giving certificates.

3.Believing the words of the above said persons, he and his mother Janaki



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deposited various amounts on various dates as detailed in the complaint. They also mentioned the amount deposited, date of deposit, date of maturity and maturity amount details. In token acknowledgement of the above said deposit they have issued Bonds. But from 15.02.2023, the money deposited through the Agent Chellammal was neither returned nor interest paid. When he approached the above said Office, there was no proper reply. Later, he came to know that they have been cheated. Totally Rs.73.50 Lakhs was deposited.

4.On the basis of the above said complaint, case was registered in Crime No.3 of 2023 for the offences punishable under Sections 406, 420, 34 of IPC and Section 5 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, (herein after referred to as 'the Act, 1997') on 20.06.2023. Originally 11 persons have been shown as accused. The first accused is Neomax Properties Private Limited; the second accused is Garlando Properties Private Limited; the third accused is Transco Properties Private Limited; Tridas Properties Private Limited has been arrayed as fourth accused; The fifth accused is Glowmax Properties Private Limited; All other accused are individual persons working in various capacities in the above said companies.

5.Seeking anticipatory bail, this petition has been filed by A9.

6.Heard both sides.



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7.The learned counsel appearing for the petitioner would heavily rely upon the role alleged to have been played by this petitioner. He would submit that he was acting only as an Agent for the company; Even as per the allegation of the de-facto complainant, till lodging of the complaint, proper interest or benefit was paid. So according to the learned counsel appearing for the petitioner, there was no intention on the part of the petitioner to cheat the investors at the time of inception; But something has gone in the midway, for which the petitioner cannot be held responsible.

8.It is further submitted that the earlier applications were dismissed on the wrong premise that he is one of the Directors of the company.

9.With regard to the role alleged to have been played by the petitioner, it is now clarified by the learned Additional Public Prosecutor that he was acting only as an Agent and not the Director. That position is now cleared.

10.By pointing out this mistake, he would further submit that the petitioner is not involved in the affairs of the company. So he cannot be held responsible for the present issue. Now, he is also ready to cooperate with the respondent to complete the investigation process, for which according to him, absolutely no custodial interrogation is required.

11.In short, what he impressed upon the court is that the petitioner was never in



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the picture of the present issue. His duty was over by introducing the investors and collecting the money. Thereafter, he is not involved in the affairs of the company. So considering his limited role, in the absence of any ex-materials to show his criminal intention, he is entitled for anticipatory bail.

12.Per contra, the learned Additional Public Prosecutor would submit that active role was played by the petitioner in collecting money from several persons as an Agent of the company. He is also responsible for the consequence of the investment. Apart from that, he also submitted that in the FIR, his name has been mentioned and during the course of investigation, finding that there is a violation of sections 3 and 4 of the BUDS Act, alteration report has also filed; By going through the investigation process, it was found that the petitioner was also responsible for the wrong investment.

13.A detailed order was passed by this court, while disposing Crl.OP(MD) Nos.13071, 13465 and 14119 of 2023, dated 22/08/2023. No doubt that as mentioned above, the petitioner is not a Director of the company. But as an Agent of the company, he is also responsible for whatever consequence that happened.

14.The role of the Agent has also been brought to the notice of this court, while hearing WP(MD)Nos.17079 of 2024 batch etc. The Agents are the root cause and ground persons, who had contact with the innocent investors, lured them to make



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investment, promising to secure double benefit, etc.

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15.It is also submitted by the learned counsel appearing for the petitioner, at that time that the Agents are blocking the investors not to give complaint to the police in this issue. If complaint is given, then they will loose their money. According to him, the Agents role in the subsequent event must also be taken into account.

16.It is also further submitted that the company purchased the properties in the remote area, which will fetch not even Rs.1000 per cent. According to him, such a huge fraud has been committed upon the investors. The relevant portion of the submission is extracted hereunder:-

“50.Mr.N.Anandha Padmanabhan, learned Senior counsel appearing for some of the victims would submit that even though the company says that they are ready to settle the issue, but by practising or playing fraud upon the investors, they drew deposits and purchased property in remote ares, which will not fetch not more than 1000 per cent. Now the company says that it is willing to settle the issue, in respect of the properties lesser value also, an irony.

51.He would also submit that even now the agents are



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preventing the villagers from giving complaints. So according to him, this is not as simple as stated by the petitioners to take steps of the available lands, distribute the same to the customers by a retired Judge. This is the one angle of aspect.”

17. So the position is now clear. Even though, the petitioner acted as an Agent of the company, to what extent he lured the investors making false promise must be thoroughly investigated, for which custodial interrogation is very much required. This is not a simple issue.

18. Considering the magnitude of the offence, huge money involved, the manner in which the company alleged to have defrauded the investors, disentitle the petitioner from claiming the discretionary relief. I find no reason to entertain this petition.

19. In the result, this criminal original petition is dismissed.

sd/-
09/11/2023

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/01/2024
Sub-Assistant Registrar
(C.S. I / II / III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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ER

TO

1 THE INSPECTOR OF POLICE,
ECONOMIC OFFENCES WING-II, MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
THIRUTHANGAL POLICE STATION,
THIRUTHANGAL, VIRUDHUNAGAR DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.T.ANTONY ARULRAJ, Advocate (SR-16192[I] dated 10/11/2023)

ORDER

IN

CRL OP(MD) No.17811 of 2023

Date :09/11/2023

SA/DD/SAR. /08.01.2024/8P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.