IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

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THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.1013 of 2024

S. Nagarajan
S/o.Late Subramanian
... Petitioner

Vs.

State represented by
The Inspector of Police,
CC Wing, CB CID,
Metro, Chennai.
... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., prayed to enlarge the petitioners on bail in Crime No.13 of 2023 on the file of the respondent.

For Petitioner : Mr.M.Ravi
For Mr.Aayiram K. Selvakumar

For Respondent : Mr.L.Baskaran
Govt. Advocate (Criminal Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 03.12.2023 for the offences punishable under Sections 403, 408 and 420 IPC r/w Section 66(C) of Information Technology Act, 2008 in Crime No.13 of 2023 on the file of the respondent police.

2.The petitioner had been actually arrested when he came back from Singapore since a lookout circular had been issued against him. He came to Chennai from Singapore on 03.12.2023 and he had been secured by the emigration authority and handed over to the respondent police, who had produced him before the jurisdictional Magistrate for remand, on the same day.

3.The facts of the case, as stated by the prosecution are that, one C.S.Vasan and his brother C.V.Ragavan had only one legal heir namely, their sister K.R.Champakam, but however, they were possession of substantial amounts in the nature of fixed deposits, which had been kept in Tamil Nadu Power Finance and Infrastructure Development Corporation Limited, Nandanam, Chennai. It is stated that in 36 of those fixed deposits, the petitioner herein had been nominated as nominee.

4.It is the case of the prosecution that however though there were actually 46 deposits and for the balance 10 deposits, the petitioner had no right or authority, but those amounts had also been transferred to his account. This transfer had taken place through the mechanism of A1, who was working as a contract worker under the said Tamil Nadu Power Finance and Infrastructure Development Corporation, particularly to look after the fixed deposits of persons who had died. It is also the case of the prosecution that A1 came to know that C.S.Vasan had died without leaving any legal heir. However, there were two sets of fixed deposits namely, one in his name and another in his brother name viz., C.V.Ragavan. It is stated that A1 had created false identities of existing employees and was able to access the fixed deposits and was able to transfer the amounts not only to his personal account but also to the accounts of his parents, relatives and a sum of Rs.2.66/- Crores to the account of the petitioner herein.

5.The petitioner has been made an accused because similarly, the petitioner had transferred a sum of Rs.20,00,000/- to the account of B.Surya and therefore, it is also the specific case of the prosecution that there was quid pro quo for the unlawful transfer effected by B.Surya of the fixed deposit accounts of the deceased, C.S.Vasan. It is therefore stated that both the petitioner and the 1st accused had colluded with each other with intention to grab the money of the deceased.

6.The learned counsel for the petitioner, however stated that the balance 10 fixed deposits which according to the prosecution had been surreptitiously transferred to the account of the petitioner had actually been transferred even during the life time of the deceased.

7.These are aspects to be examined during the course of trial and it is not for this Court to go into the details on that particular fact.

8.It is a fact that there has been transfer of 2.66/- Crores to the account of this petitioner through the mechanism of A1. It is also a fact that the respondent during the course of their investigation had directed the Tamil Nadu Power Finance and Infrastructure Development Corporation Limited to freeze an amount of Rs.1.4/- Crores and yet another sum of Rs.60,00,000/-.

9.It is also contended by the learned counsel for the petitioner that the petitioner has the original fixed deposit receipts for the balance sum of Rs.80,00,000/- and those fixed deposits are six in number. The learned counsel gave an explanation for the deposit of Rs.20,00,000/- to the account of B.Surya but that is an explanation which will have to be tested during the course of trial and therefore, this Court is not inclined to either stated or to pass any observations on the same.

10.The facts are clear. An amount of Rs.2.66/- Crores had been transferred to the account of the petitioner. Let the account which had been frozen remain frozen. The petitioner is **directed to deposit every original fixed deposit receipts which are in his possession, which amounts to the balance of Rs.80,00,000/- and which are six in number to the credit of Crime No.13 of 2023 before the learned Metropolitan Magistrate, for Exclusive Trial of CCB Cases and CBCID Metro Court, Chennai and on such receipt, the learned Metropolitan Magistrate, may retain the fixed deposit in a safe custody and take a decision on conclusion of trial. If they are to mature during the course of trial, they may be automatically renewed by the learned Metropolitan Magistrate and kept alive till the**

conclusion of trial.

11.There is also an issue of a sum of Rs.20,00,000/- having been paid by the petitioner to A1 and if the petitioner is able to satisfy the reasons for such payment during the course of trial, then orders can be passed on the same, since now an order is passed **directing the petitioner to deposit the said sum of Rs.20,00,000/- to the credit of Crime No.13 of 2023 on or before 09.02.2024, which may be transferred to an interest earning fixed deposit by the learned Metropolitan Magistrate. After conclusion of trial, the same amount may either be clubbed with the amounts of the fixed deposit which had been frozen and now lying with the Tamil Nadu Power Finance and Infrastructure Development Corporation Limited or handed over back to the petitioner herein depending on the nature of judgment passed against the petitioner**.

12.A counter affidavit had also been filed stating that investigation will have to be done with respect to further deposits, which would be in the possession of the petitioner herein. It is also stated that the petitioner had moved away to Singapore to avoid judicial process and therefore, lookout circular has also been issued and it is therefore stated that there is every possibility of the petitioner absconding again from the judicial process.

13.In view of that particular fact to ensure bonafide, the petitioner must also deposit his original passport before the aforesaid learned Metropolitan Magistrate Court and if any need arises for him to go over any foreign country, he may seek permission for return of passport giving the details of the dates of departure and arrival and also produce the proof of the same.

14.In view of the above observations, this Court is inclined to grant bail to the petitioner.

15.Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 Metropolitan Magistrate For Exclusive Trial of CCB Cases and CBCID Metro Court, 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 petitioner 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 absconds, a fresh FIR can be registered under Section 229A IPC.

24.01.2024

smv

To

1.The Metropolitan Magistrate For Exclusive Trial of CCB Cases and CBCID Metro Court, Chennai

2.The The Inspector of Police,
CC Wing, CB CID,
Metro, Chennai.

3.The Central Prison, Puzhal.

4. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN,J.

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