IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 31.01.2025

Pronounced on: 18.02.2025

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.951 of 2025

R. Jayakumar S/o. Rajamani ... Petitioner /A25

Vs

State rep. by:-

The Deputy Superintendent of Police,
HQRS Police Station,
Economic Offences Wing,
Chennai. ... Respondent
[Cr. No.21 of 2022]

PRAYER: - The Criminal Original Petition is filed under Section 439 of Criminal Procedure Code / Section 483 of B.N.S.S., praying to grant bail to the petitioner / Accused 25 in Cr. No.21 of 2022 on the file of the respondent police.

For Petitioner : Mr. R.C. Paul Kanagaraj
For Intervenor: Mr. D. Selvam.

For Respondent : Mr. E. Raj Thilak
Additional Public Prosecutor
[Criminal side]

ORDER

The petitioner/Accused No.25, who was arrested and remanded to judicial custody on 06.05.2023 for the offences punishable under Sections 120-B, 409, 420 r/w 109 and 34 of IPC and Section 5 of TNPID Act, 1997 and Sections 21(3), 22, 23, 24 & 25 of the BUDS Act in Cr. No.21 of 2022 on the file of the respondent police, seeks bail.

2. This is a case of alleged financial fraud, cheating, criminal breach of trust, collection of unregulated deposits and criminal conspiracy by M/s. Hijau Associates Private Limited / A1 and other accused, who are Chairman, Managing Director, Directors, Board of Members, Committee Members and Manager. The allegation against the company is that M/s. Hijau Associates Private Limited / A1 had been collecting deposit from the public with false and alluring promise of paying exorbitant interest at the rate of 15% per month and thereafter they did not pay the interest and also failed to return to deposited money.

Hence one Nithya, who is a depositor in the A1 company has lodged complaint and based on the complaint, this case has been registered.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner and others for the alleged offences under Sections 120-B, 409, 420 r/w 109 and 34 of IPC and Section 5 of TNPID Act, 1997 and Sections 21(3), 22, 23, 24 & 25 of the BUDS Act in Cr. No.21 of 2022. This petitioner has been arrayed as A25 and he was arrested and remanded to judicial custody on 06.05.2023. Even according to the prosecution case, a company named M/s. Hijau Associate Private Limited administered by its Chairman, Managing Director, Directors, General Managers and executives caused false propaganda among the general public, made them to deposit in the said firm. The said company paid interest for few months and thereafter, failed to pay interest and did not repay the principal amount. Therefore, complaint has been lodged and FIR was registered. In fact, the petitioner himself is one of the depositors in the

said Hijau Associates Private Limited and he had invested Rs.2 lakhs on 13.10.2020. For the said amount, the A1 company had executed an Investment Agreement and the petitioner was a driver by occupation and he himself invested and lost his hard earned money. The petitioner is not a Committee Member as alleged by the prosecution. The petitioner has not collected any money from the public and the petitioner is running an Agro firm namely Blessy Agro Firm at a rented premises situated in Valasaravakkam, Chennai and the said premises is a residential premises. There is no any operating bank account for the said company. Therefore, it is false to state that the petitioner had collected amount from the depositors through that firm. The petitioner neither compelled or coerced his friends or relatives to invest money in the said Hijau Associates Private Limited. However, petitioner's friends and relatives incessantly started following up with the petitioner for the money they invested in the said company. Therefore, the petitioner paid a sum of Rs.31,81,000/- to his friends and relatives, out of his own funds. There is no intention to cheat or siphon of the money invested by the general public. The petitioner is sole breadwinner of his family. The other co-accused who were the main Directors and General Managers have been already enlarged on bail by this Court. The earlier bail applications filed by this petitioner in Crl. O.P. No.13103 of 2023 and 17349 of 2024 were also dismissed by this Court. Investigation was completed and charge sheet was also filed on 17.05.2023. Therefore, prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor (Criminal side) appearing for the respondent police would submit that based on the complaint given by the defacto complainant Nithya dated 08.11.2022, the case in Cr. No.21 of 2022 was registered for the offences under Sections 120-B, 409, 420 r/w 109 and 34 of IPC and Section 5 of TNPID Act, 1997 and Sections 21(3), 22, 23, 24 & 25 of the BUDS Act. The company namely M/s. Hijau Associates Private Limited involved in the case of financial fraud, cheating, criminal breach of trust, collection of unregulated deposits and criminal conspiracy. The M/s. Hijau Associates

Private Limited created an APP, application i.e., www.mypayhm.com and collected deposit amounts from the depositors. More than 89,043 depositors have deposited amount to the tune of Rs.4414,44,22,350/-. So far, 14,521 depositors have given complaints. There are 12 Directors and 22 sister concerns to the 1st accused company. There is no any license issued by the RBI for the non-banking financial company to collect deposits from the public and also not sanctioned with any regulated deposit schemes by SEBI and not permitted to collect deposits under the Companies Act. However, the 1st accused company along with other sister concerns received the deposits from the public illegally. In furtherance of criminal conspiracy, A4/Soundarrajan, Chairman and A3/ Alexander Soundararajan, Managing Director without any approval of either RBI under the provisions of Section 45-IA(A) of RBI Act or sanction of any regulated deposit schemes with SEBI, collected deposits under the provisions of Companies Act from January 2020 onwards. They raised the interest rate to 15% per month and also that every depositor will be waived 5% of their deposit at the time of paying the deposit amount itself and the waived 5% of the deposit is given either to the benefit of the depositor himself or to the depositor who introduces him to the A1 company. The said Chairman A4/ Soundararajan and A3/Alexander, Managing Director purposely sponsored some social services like Ambulance services and cash reliefs to victims during COVID-19 pandemic in the year 2020-21. The investigating agency after completion of investigation already filed final report on 17.05.2023. The case is now pending on the file of TNPID Court, Chennai in C.C. No.10 of 2023 and supplementary charge sheet was also submitted on 14.06.2024. During the course of investigation, it came to know that this petitioner is one of the close associates of A4/ Soundararajan, Chairman of A1 company M/s. Hijau Associates Private Limited and A3/ Alexander, Managing Director, Son of A4 and this petitioner was made as Committee Member of M/s. Hijau Associates Private Limited and he is also the Proprietor of M/s.Blessy Agro Firm, at Valasaravakkam, Chennai. Therefore, this petitioner involved in collecting the deposits from the general public as a part of criminal conspiracy with main accused A3 and A4. This petitioner has purchased properties from the proceeds of the crime and there are several allegations as against this petitioner. Hence, he strongly opposed to grant bail to the petitioner.

5. The learned intervener / defacto complainant also reiterated the arguments of the learned Additional Public Prosecutor. Further would contend that the accused informed the depositors, friends and close relatives about the schemes and as per the guidance of the accused and guarantee given by him, the intervener had deposited several lakhs in the accused company. After deposit of the amount, the intervener received 15% interest for few months and thereafter, the A1 company failed to pay the amount. The main accused A3 and A4 are still absconding. Already this Court dismissed the earlier bail applications filed by the petitioner and there are no change in circumstances. Therefore, the petition is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. In this case, huge amounts were collected in the name of deposits by A1 company. The main accused A3 is the Chairman of the A1 company M/s. Hijau Associates Private Limited and A4 is none other than the son of A3, who is the Managing Director of the A1 company. They created online portal and received money from the public. Huge amount is involved in this case. Thereby, this Court also earlier dismissed the bail application and also this Court, based on the judgments of Hon'ble Supreme Court, observed as follows:

> "The offences in the present case fall under economic offences and the economic offender should not be dealt as general offender, because economic offenders run parallel economy and they are serious threat to the national economy. Also, the Court has to keep in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means, the Court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt".

8. In this case, already charge sheet was filed and supplementary charge sheet was also filed and now the case is taken on the file by the Special Court for TNPID Act, Chennai in C.C. No.10 of 2023. As per the charge sheet, the only allegation against the petitioner is that he is the proprietor of M/s.Blessy Agro Firm, which is the sister concern of the A1 company M/s. Hijau Associates Private Limited. But the said M/s. Blessy Agro Firm has not involved in any money transactions collected from the public and in the charge sheet also, the said M/s. Blessy Agro Firm was not included. The main allegation levelled against the petitioner is that he is the close associate of the main accused A3 and A4 and he purchased properties from the proceeds of crime and he is the proprietor of M/s. Blessy Agro Firm.

9. But the said M/s. Blessy Agro Firm has not been added as one of the accused and the said company has not involved in any money transactions. As per the petitioner's contention, he has only invested money of Rs.2 lakhs with A1 company M/s. Hijau Associates Private Limited and his relatives and friends have also invested money with A1

company, this petitioner is not a Director or Managing Director of A1 M/s. Hijau Associates Private Limited and he is only a driver, he is also one of the investors in the A1 M/s. Hijau Associates Private Limited. Further the petitioner has not directly involved in any money transactions either in person or through bank accounts and the petitioner is in judicial custody from 06.05.2023 and now the case is posted for further proceedings and no chance to complete the trial in a near future. At this juncture, it is appropriate to rely the judgment of Hon'ble Supreme Court in ***Aravind Kejriwal vs.CBI in Crl. Appeal No.3816 of 2024 and Vijay Nair vs. Enforcement Directorate in SLP Diary No.22131 of 2024 and Senthil Balaji vs. The Deputy Director, Directorate of Enforcement in Crl. Appeal No.4011 of 2024,*** wherein the Hon'ble Supreme Court observed that *long detention without commencement of trial will amount to violation of rights of the accused under Article 21 of the Constitution of India.* In this case also, the petitioner is in judicial custody since 06.05.2023 and there is no chance to complete the trial within a near future. In view of the said reasons, this Court is of the opinion that it is appropriate to release the petitioner on bail with certain conditions.

10. In the result, this Court is inclined to grant bail to the petitioner subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the **Special Court, TNPID Cases, Chennai** and on further conditions that:

[b] the petitioner shall report before the trial Court concerned, on all working days at 10.30 a.m. until further orders.

[c] the petitioner shall not commit any offence similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[d] the petitioner shall not abscond either during investigation or

trial;

[e] the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[f] On breach of any of the aforesaid conditions, the learned Judicial 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.2023.

18.02.2025

index: Yes/No

Internet: Yes/No
Speaking/Non Speaking order
mjs

To
1.The Special Judge, Special Court under the TNPID Act (Financial Establishment) Act, Chennai.
2.The Public Prosecutor, Madras High Court, Chennai.
3. The Deputy Superintendent of Police,
HQRS Police Station, Economic Offences Wing, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

P.DHANABAL,J
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