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CrI.O.P.No. 9022 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.03.2024

PRONOUNCED ON : 14.03.2024

CORAM

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

CrI.O.P.No. 9022 of 2023

The State Represented by
Deputy Superintendent of Police
Economic Offences Wing-II
Ashok Nagar, Chennai – 83. ... Petitioner/Respondent/Complainant

Vs.
K.Jagannathan ... Respondent/Petitioner/Accused

PRAYER: Criminal Original Petitions filed under Section 439(ii) of Cr.P.C.,
pleased to cancel the bail granted to the respondent herein/A-13 in
CrI.M.P.No. 4834 of 2022 dated 15.12.2022 on the file of the learned the
Court of Special Judge under Tamil Nadu Protection of Interests of
Depositors [In Financial Establishment] Act 1997, Chennai.

For Petitioner : Mr R.Muniyapparaj



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Additional Public Prosecutor

For Respondent : Mr.R.Rajarithnam
Senior Counsel
for Mr.K.Hari

ORDER

This petition has been filed by the prosecution in Cr.No. 16 of 2022 registered under Sections 409, 420, 120(b) IPC and Section 5 of TNPID Act 1997, Sections 3, 5, 21(1), 21(2), 21(3), 23 & 25 of BUDS Act, 2019, seeking to cancel the bail granted to the respondent/A-13 in CrI.M.P.No. 4834 of 022 dated 15.12.2022 by the learned Special Judge for TNPID Act Cases, Chennai.

2. In the affidavit filed by the Investigating Officer, Additional Superintendent of Police, EOW-II at Chennai, it had been stated that Cr.No. 16 of 2022 had been registered consequent to a complaint received about a firm called International Financial Services (IFS) at Sathuvachari, Vellore and another firm LNS, International Financial Services at Chennai with the allegations that the companies had collected deposits promising high rate of interest and that the defacto complainant had invested an amount of Rs.6.30



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crores. During the course of investigation, searches were conducted at 31 places and Rs.1,12,19,880/- cash and 623.25 gms of gold to the value of Rs.29,23,665/- and 72 property documents to the value of Rs.12,23,67,438/- had been seized. It had also been stated that 7 cars of the accused had also been seized to a total value of Rs.2.5 crores. It had been further stated that the accused had collected substantial amounts of money from various depositors.

3. The respondent herein A-13 was arrested on 13.08.2022 and remanded to custody on 14.08.2022. From him and his family members, 21 property documents had been seized to a total value of Rs.2,27,43,371/-. He was also taken into police custody and at that time, a Mercedes Benz Car and white Maruthi Ertiga car were also seized.

4. The specific allegations against this respondent were that he had collected deposits from numerous investors and had sent some portion of the same after deducting his commission to the other accused Mohan Babu and Lakshmi Narayanan for investment in IFS. Further, the respondent is said to have started GOODHAMS Management Consulting LLP and had purchased



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several movables and immovable properties. The said company was not registered with the Registrar of Companies. However, the respondent had issued certificates in the name of the said Limited Liability Partnership. It had been further stated that the respondent had induced investors to invest in LNS International Financial Services Limited by promising huge returns. It had been further stated that in view of these facts, the FIR in Crime number was registered under Sections 409, 420, 120(b) IPC and Section 5 of TNPID Act 1997, Sections 3, 5, 21(1), 21(2), 21(3), 23 & 25 of BUDS Act, 2019.

5. It had been further stated that the respondent/A-13 had collected Rs.8247.86 crores from various depositors. He was a top level agent in LNS International Financial Services Ltd. It is also alleged that he had created sub agents for further collection of deposits and other transactions. It had been stated that till date, 1,086 complaints had been received to a total value of Rs.220,58,11,969/- crores. This amount had been directly deposited by the respondent/A-13 for investment in LNS IFS. It had been further stated that as on date, there are 19 accused including the companies.

6. The final report had also been filed. It had been taken



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cognizance as C.C.No. 7 of 2022 by the Special Court for TNPID Act Cases.

It had been stated that permission had been obtained to conduct further investigation under Section 173(8) Cr.P.C. It had been stated that the four companies were run by four brothers, namely, Lakshmi Narayanan, Vedha Narayanan, Janarthanan and Mohan Babu. They had left India on 24.07.2022 and they have been located at Dubai. It is contended that steps are being taken to issue Red Corner Notices through Interpol for taking into custody of those accused.

7. It had been further stated that though bail had been granted to the petitioner, he had been called over for interrogation on 10.04.2023 and though he appeared, he did not co-operate during the investigation. It had also been stated that the value of the properties seized from the respondent/A13 was lesser than the amount for which complaints had been received specifically against him. It had also been stated that information had been received that he had intimidated the witnesses and threatened them with false promise of returning the amounts deposited by them, thereby preventing genuine depositors from giving complaints before the respondent. It was thus stated that the bail granted to the respondent by an order dated 13.12.2022 in



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CrI.M.P.No. 4834 of 2022 should be set aside.

8. Mr.R.Muniyapparaj, learned Additional Public Prosecutor pointing out all the above facts, argued vehemently that the prosecution had gathered further information and had also recorded statements from depositors who alleged that the respondent had threatened them and had directed them to withdraw the complaints. The learned Additional Public Prosecutor was emphatic in his assertion that the respondent had also absconded from judicial process. He stated that the respondent was not available in the address which he had mentioned at the time of producing sureties.

9. An additional affidavit had also been filed on behalf of the prosecution, wherein it had been stated that there are concrete grounds to hold that the respondent has been tampering with the witnesses and threatening them. It had been stated that complaints in this regard had been received from existing as well as new witnesses. It had been stated that atleast five witnesses, namely, Vinoth, Porselvan, Masilamani, Anand and another Vinoth had clearly stated that the respondent Jaganathan along with other



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agents are actively trying to scuttle the investigation process by manipulating the witness. It had been stated that custodial interrogation of the petitioner is also required. It had been further stated that among other conditions imposed while granting bail, it had been stipulated that the respondent should not abscond either during the investigation or during trial. However, he was not found in his residential address when the investigating Officer tried to effect service on him. It had been stated that every witness who approaches the Economic Offences Wing is again approached by the respondent and are influenced not to give evidence against the accused.

10. Reiterating that the respondent had violated the conditions granting bail particularly not to interfere or tamper witnesses and to be present in the given address, the learned Additional Public Prosecutor urged that the bail granted must be cancelled.

11. A counter affidavit has been filed on behalf of the respondent wherein he had given the transactions of between the respondent and his sub agents and thereafter with the depositors. He had also given the details of the transactions between him and the ICICI Bank account, Arakonam Branch,



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Ranipet District. The learned Senior Counsel stated that the role of the respondent is very negligible. According to him, though he had collected amounts from the depositors, he had transmitted the same to the other accused and had received only commission. In the counter affidavit, tabulated statements showing the investments and the process of money transactions had also been given.

12. The allegation that the respondent had been tampering with the witnesses was denied. The learned Senior Counsel stated that the respondent had appeared before the investigating agency whenever they called him. Claiming that no sufficient grounds had been made out for cancellation of bail, the learned Senior Counsel insisted that the petition should be dismissed.

13. I have carefully considered the arguments advanced and also perused the records.

14. The prosecution has filed the present application seeking cancellation of the bail granted to the respondent, who had been arrayed as



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A-13 in Cr.No. 16 of 2022. It is a fact that when the FIR was registered, the petitioner was not shown as an accused. The FIR was registered for offences under Sections 420, 120(b) and 409 IPC and Section 5 of TNPID Act and Sections 3, 5, 21(1), 21(2), 21(3), 23 and 25 of BUDS Act. The respondent was remanded to custody on 14.08.2022. Thereafter, bail was granted by an order dated 13.12.2022 in CrI.M.P.No. 4834 of 2022.

15. The prosecution now seeks to set aside that particular order granting bail. While granting bail, the learned Special Judge, TNPID Court, Chennai, had observed that the respondent was running a financial establishment in the name of GOODHAMS Management Consulting LLP and in that name had issued certificates to various depositors. It had been observed that police custody had also been granted for a period of three days after the initial date of remand. Thereafter, it had been further noted that the prosecution had seized 21 documents relating to purchase of separate properties in the name of the respondent or in the name of his wife or father. Two cars were also seized, one, a Mercedes Benz and the other a Maruti Car. Thereafter, without any further discussion and taking into consideration the period of incarceration, bail had been granted with conditions.



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16. This petition seeking cancellation of bail is focused on violation of two of the conditions, namely, that the respondent should not abscond either during the investigation or trial and that he should not tamper with evidence or witnesses either during investigation or trial.

17. In the affidavit and the additional affidavit filed placing on record the grounds on which the bail granted should be cancelled, the Investigating Officer had very specifically stated that complaints had been received from witnesses that the respondent is preventing and intimidating them from approaching the prosecution for lodging further complaints. It was also stated that though the respondent appeared for interrogation on 10.04.2023, he did not co-operate and refused to divulge any information. It had been further specifically stated in the additional affidavit, that written complaints had been received from depositors stating that the respondent had directly called upon them not to participate during the investigation process and that he had also threatened them. He had also held out that if they co-operate with the accused, he would ensure that their deposits are returned.

18. It had been further very specifically stated that the respondent was not available in the address which he had given and in this connection,



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the prosecution also brought to the notice of this Court certificate issued by the Village Administrative Officer, dated 09.02.2024 which indicated that the respondent was not available in his residential address.

19. The learned Senior Counsel appearing on behalf of the respondent however stated that as a fact the respondent was not staying in his residential house but was always available if ever the prosecution were to issue any notice to him for appearance. It had been contended that the respondent only acted as a ladder or a bridge between the depositors and the other accused, who were in direct management of the Companies in which the deposits have been made. He only deducted the commission which was payable to him and it was contended that he had so benefitted to a sum of more than Rs.20/- crores. It was also contended that the respondent had actually appeared before the prosecution whenever called upon. It had been stated that as condition for grant of bail, he had been directed to appear before the EOW, Thiruvavur, every day till 10.01.2023 and thereafter, every Monday and this condition which was also subsequently relaxed by the trial Court on 22.02.2023. The learned Senior Counsel stated that the grounds on which cancellation of bail were sought were not sufficient grounds to interfere



with the liberty granted to the respondent.

20. One factor which will have to be considered by this Court is the active involvement of this respondent in the collection of deposits and in forwarding the same to the accused, who are absconding. As a matter of fact, there are also instances of electronic mails being sent to this respondent by the absconding accused. These facts show that this respondent was directly involved in the day-to-day affairs of the Companies which are the focal point of investigation and that he is also still in contact with the absconding accused. He had received commission from them. He had also made his bank account available to be utilised as a transit point for transfer of funds to and from the accounts of the absconding accused. He had also gained substantially by serving the interests of the absconding accused as there were as many as 21 properties purchased in his name or in the name of his wife or father. No word had been uttered by the learned Senior Counsel that the wife of the respondent or the father of the respondent had sufficient income to purchase the properties stated by the prosecution as being the proceeds of crime. There were also two high end cars seized from the possession of the respondent. All these facts are stated, since after getting bail, the respondent



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even if he claims innocence of knowledge about the whereabouts of the absconding accused, still has a direct personal interest in ensuring that none of the properties purchased are seized into effective custody by the prosecution. This would mean that he has to ensure that the properties are not sold to generate funds for return the monies payable to the depositors. It is therefore necessary, atleast to save and protect his own interests that he has to indulge in interfering with the peace of the witnesses. As Managing Director of GOODHAMS Management Consulting LLP, he had issued certificates to various depositors and therefore, he knew the actual depositors and therefore, there is stray possibility of directly threatening and intimidating them to withdraw from assisting the prosecution. This is with pure self interest. This is a direct violation of the condition granting bail. Specific instances have been given by the prosecution, namely, the names of the individuals and the certificates issued to them of having deposited amounts, the statements recorded alleging intimidation.

21. These facts clearly show that the respondent had embarked on a mission to ensure that the witnesses are prevented from coming to the Court



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and stating the true facts. When such is the case, this Court will necessarily have to protect the interest of all the depositors and to ensure that the bail granted has to be cancelled.

22. The second instances is about the disappearance of the respondent from his normal place to residence at No.82/143, Kamarajar Street, Asanellikkuppam Village, Nemili, Ranipet. The claim of the learned Senior Counsel that the respondent had to sign before EOW, Thiruvarur is only a lame attempt since admittedly, the condition to sign before EOW Thiruvarur had been completely relaxed by the trial Court as early as 22.02.2023. The certificate by the Village Administrative Officer alleging absence of the respondent is dated 09.02.2024. After the conditions have been relaxed, there was a mandate on the respondent to stay at the declared place on residence. He has again violated this condition.

23. The Hon'ble Supreme Court in *1987 SCC 364 [State of Gujarat Vs. Mohanlal Jitamalji Porwal]* had held as follows:-



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“The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner with- out fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest ”

24. In (2012) SCC 180 [Kanwar Singh Meena Vs. State of Rajasthan] the Hon'ble Supreme Court had held as follows:-

“While cancelling bail under Section 439(2) of the Code, the primary considerations which



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weigh with the court are whether the accused is likely to tamper with the evidence or interfere or attempt to interfere with the due course of justice or evade the due course of justice.

25. In (2014) 16 SCC 508 [Neeru Yadav Vs. State of Uttar

Pradesh & Another], the Hon'ble Supreme Court had held as follows:-

“We have referred to certain principles to be kept in mind while granting bail, as has been laid down by this Court from time to time. It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail and have not been taken note of bail or it is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a



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grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the Court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the Court. ”

26. It is also to be noted that a learned Single Judge of this Court **[T.V.Thamilselvi, J.]** in CrI.M.P.No. 8256 of 2023 in CrI.O.P.No. 855 of 2023 had cancelled the bail granted to A-6 G.Saravana Kumar, by an order dated 06.07.2023. It had been observed by the learned Single Judge as follows:-

“7. Considering the facts and circumstances, after obtaining bail the petitioner has hampered the witnesses and tampered the evidence, and so far 3114 complaints were received against him and that are being investigated. It is also a case of Economic offence of huge magnitude of Rs.1400 crores of amount is



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involved and even the property attached from the petitioner is not sufficient for his liability and the petitioner is stated to be a key person. Considering the gravity of the offences committed by the petitioner and also his subsequent contact not co-operating for investigation and considering that the investigation is yet to be completed, the bail already granted before this Court to the respondent in Crl.O.P.No. 855 of 2023, dated 19.01.2023 stands cancelled. The petitioner is directed to proceed in accordance with law. ”

27. It is thus seen that one after the other, the accused, who have been granted bail, have started to threaten the witness and intimidate them.

28. In view of these circumstances, particularly on the basis of the ratio laid down on the Judgments referred supra, I hold that the prosecution has made out a clear case for this Court to cancel the bail granted to the respondent. Documents have been produced to establish that witnesses have been threatened and intimidated by the respondent and to further not available at his declared place of residence.

29. In view of the reasons stated, this Petition stands allowed. The



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bail granted to the respondent in CrI.M.P.No. 4834 of 2022 by order dated 13.12.2022 by the learned Special Judge under TNPID Act Cases, Chennai, is hereby cancelled.

30. The respondent is directed to surrender before the petitioner within a period of three days, failing which, the prosecution is directed to take him into custody.

14.03.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

C.V.KARTHIKEYAN, J.



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vsg

Pre Delivery Order made in
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14.03.2024