

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 11.06.2024

CORAM

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.Nos.962 and 963 of 2024

Prayer in Crl.R.C.No.962 of 2024:

Shanthi Homes and Reality,
Represented by S.Pawankumar,
S/o.Shanthilal Jain,
No.42, Nehru Bazaar Road,
Avadi, Chennai-600 054.

... Petitioner

-Vs-

1.The State Represented by
The Additional Superintendent of Police,
Economic Offences Wing II,
Ashok Nagar, Chennai.

2.The Branch Manager,
Indian Overseas Bank,
TNHB, Avadi, Chennai-54.

... Respondents

Prayer: Criminal revision is filed under Section 397 rw. 401 of the Criminal Procedure Code, to set aside the order dated 17.05.2024 passed in Crl.M.P.No.781 of 2024 in C.C.No.9 of 2023 by the learned VIII Additional Special Judge for CBI Cases, Special Court under TNPID Act (FAC), Chennai, by allowing the Criminal Revision Petition.

**Prayer in Crl.R.C.No.963 of 2024:**

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S.Pawankumar

... Petitioner

-Vs-

1.The State Represented by
The Additional Superintendent of Police,
Economic Offences Wing II,
Ashok Nagar, Chennai.

2.The Branch Manager,
City Union Bank,
No.246, New Military Road,
Avadi, Chennai-54.

3.The Branch Manager,
Indian Overseas Bank, No.C7,
Old Agraharam Street,
TNHB, Avadi, Chennai-54.

... Respondents

Prayer: Criminal revision is filed under Section 397 rw. 401 of the Criminal Procedure Code, to set aside the order dated 17.05.2024 passed in Crl.M.P.No.780 of 2024 in C.C.No.9 of 2023 by the learned VIII Additional Special Judge for CBI Cases, Special Court under TNPID Act (FAC), Chennai, by allowing the Criminal Revision Petition.

For petitioners : Mr.R.Sivaraman

For Respondents : Mr.R.Muniyappa Raj
Additional Public Prosecutor



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COMMON ORDER

The Criminal Revision Cases are filed against the common order dated 17.05.2024 passed in CrI.M.P.Nos.780 and 781 of 2024 in C.C.No.9 of 2023 by the learned VIII Additional Special Judge for CBI Cases, Special Court under TNPID Act (FAC), Chennai.

2. The learned counsel appearing for the petitioners submits that the petitioners have been running a jewellery shop in the name and style of M/s.Shanthi Jewellery and have also been involved in the real estate business. They came to know by way of paper publication that BKR Hotels and Resort Private Limited was admitted to Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016, by the National Company Law Tribunal, Chennai (NCLT), vide order dated 14.08.2018 and the properties, namely, BKR Grand-Sarojini Street, T.Nagar, BKR Convention Centre, Venkatesan Street, T.Nagar and BKR Ooty Gate, Coonoor Road, Ooty, were brought to public auction and the bid amount was fixed by the Liquidator for a sum of Rs.68,00,00,000/-. The petitioners were willing to purchase only one property, i.e., BKR Convention Centre at Venkatesan Street, T.Nagar,



however, as per the norms of the auction, all the three properties should be purchased in one package. During the time, the petitioners' friend, namely Naresh, approached the petitioners and stated that he has one investor, namely, M/s.Aarudhra Gold Trading Private Limited, who was looking for investment and told the petitioners to participate in the bid in their firm name and assured the petitioners to give away BKR Convention Centre at Venkatesan Street, T.Nagar at the cost price, after the bid was completed. Accepting his proposal, the petitioners entered into an oral agreement with M/s.Aarudhra Gold Trading Private Limited and participated in the bid and submitted a letter of interest for purchase of all the three properties for a consideration of Rs.69,15,00,000/-. Accordingly, M/s. Aarudhra Gold Trading Private Limited has paid a sum of Rs.6,90,00,000/- by way of Demand Drafts. While so, the Liquidator, vide letter dated 19.05.2022, called the petitioners to deposit the balance sale consideration within a period of 30 days with 12% interest per annum and the petitioners requested the Liquidator for extension of time for payment of balance sale consideration. Subsequently, the petitioners came to know by way of news that a criminal case is pending against the said M/s.Aarudhra Gold Trading Private Limited and M/s.Aarudhra Gold Trading Private Limited has been under investigation by the Economic Offence Wing. Thereafter, when the



petitioners went to make bank transaction, they were informed that their business current account No.510909010000862 in the name of M/s.Shanthi Jewellery and personal current Account No.000801000024148 and current Account No.000802000000027 in the name of M/s.Shanthi Homes and Realty have been debit freezed on the direction given by the Economic Offence Wing-II, Chennai, vide letter dated 15.02.2024, in connection with Crime No.7 of 2022 registered by the Economic Offence Wing-II under Sections 102 and 91 Cr.P.C. Aggrieved by the same, a petition has been filed before this Court in Crl.O.P.No.4982 of 2024 and this Court, vide order dated 08.03.2024, while disposing the petition, has passed an order to the effect that "it is left open to the petitioner to approach the Court below and seek for defreezing his bank account". Subsequently, the petitioners have moved petitions in Crl.M.P.Nos.780 and 781 of 2024 before the Special Court for CBI Cases, Special Court under TNPID Act (FAC), Chennai to defreeze the accounts, however, the same were dismissed. Challenging the same, the present petitions have been filed.

3. The learned counsel appearing for the petitioners submits that the petitioners are not arrayed as accused in the case registered against



M/s.Aarudhra Gold Trading Private Limited, however, the accounts of the petitioners were frozen. He would further submit that the petitioners are ready to deposit whatever amount lying in the aforementioned three accounts to the credit of C.C.No.9 of 2023 and the petitioners may be permitted to operate the bank account from the position of zero balance and the petitioners will give an undertaking affidavit before the trial Court that they will not make any transaction contrary to the interest of the prosecution. If any transaction is made contrary to the interest of the prosecution, liberty may be given to the first respondent Police to freeze the accounts in the manner known to law.

4. The learned Additional Public Prosecutor appearing for the respondents has accepted the proposal made by the learned counsel appearing for the petitioners.

5. Considering the submission made by the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents, this Court is inclined to set aside the common order dated 17.05.2024 passed in CrI.M.P.Nos.780 and 781 of 2024 in C.C.No.9 of 2023 by the learned VIII Additional Special Judge for CBI Cases, Special Court under



TNPID Act (FAC), Chennai, and accordingly, it is set aside on the following directions:

(i) the petitioners are directed to file an appropriate petition before the trial Court for deposit of the amount lying in the three accounts, viz., Account No.510909010000862, Account No.000801000024148 and Account No.000802000000027, to the credit of C.C.No.9 of 2023 on the file of the learned VIII Additional Special Judge for CBI Cases, Special Court under TNPID Act (FAC), Chennai;

(ii) the petitioners are directed to file an undertaking affidavit that they will not make any transaction contrary to the interest of the prosecution;

(iii) if any transaction is made contrary to the interest of the prosecution, liberty is granted to the first respondent Police to proceed with the matter in the manner known to law;

(iv) on deposit of the amount lying in the aforementioned three accounts by the petitioners to the credit of C.C.No.9 of 2023 being made, the



trial Court is directed to de-freeze Account No.510909010000862, Account No.000801000024148 and Account No.000802000000027 of the petitioners and permit the petitioners to operate the account from the position of zero balance.

6. Accordingly, the Criminal Revision Cases are allowed.

11.06.2024

Index : Yes/No
Internet: Yes/No
Speaking Order : Yes/No
ssb

Note: Issue order copy on **12.06.2024**

To

The learned VIII Additional Special Judge for CBI Cases,
Special Court under TNPID Act (FAC), Chennai.



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M.DHANDAPANI,J.

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