IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2024

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.17349 of 2024

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

Vs

State rep. by:-

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

PRAYER: - The Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, 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. R. Muniyapparaj,
Assistant Public Prosecutor
Assisted by Mr. M. Sylvester John

ORDER

The petitioner/Accused No.25, who 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, Chennai seeks bail.

2. This is a case of financial fraud, cheating, criminal breach of trust, collection of unregulated deposits and criminal conspiracy committed 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. 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. This petitioner has been arrayed as A25 in the FIR and he was arrested and remanded to judicial custody on 06.05.2023. As per the prosecution, a company named M/s.Hijau Associate Private Limited administered by its Chairman, Managing Directors, General Managers and executives caused false propaganda among the general public, made them to deposit in the said firm. The said company also paid 15% interest every month for a deposit of Rs.1 lakh initially, but however ceased to pay interest after few months. In fact, the petitioner's name is not found in the FIR and the respondent police have published the name of the petitioner and few others on 15.05.2023 that this petitioner and few others are wanted persons in connection with the said offences. On 06.05.2023, the petitioner approached the respondent police and stated the real facts. However, the petitioner was arrested and remanded to judicial custody on the same day. In fact, the petitioner himself was one of the depositors in the A1 company and he had invested Rs.2 lakhs on 13.10.2020. Upon receipt of the same, the A1 company executed an investment agreement for the said deposit. The petitioner is only a car driver by occupation and he himself invested and lost his hard earned money with the above said firm. This petitioner is not a Committee member in the said company and by believing the words of the company, he suggested some of his friends and relatives about the scheme and thereby, his friends and relatives also invested their money and he has not collected any money from the said friends and relatives either by cash or on to his bank account. The petitioner is running an agro firm namely Blessy Agro Firm at a rented premises situated in Valasaravakkam, Chennai. The said firm does not even have an operating bank account. The respondent police have falsely stated that this petitioner has collected deposits illegally from the 2300 depositor to the tune of Rs.120 crores. Already this petitioner had paid a sum of Rs.31,81,000/- to his friends and relatives out of his own funds and the petitioner had no intention to cheat the money invested by the general public. He himself had invested his money and he has been falsely implicated in this case. He is in judicial custody for more than 16 months. Hence, he prayed to grant bail to the petitioner.

4. The learned Assistant Public Prosecutor would submit that based on the complaint given by the defacto complainant, this case has been registered against the petitioner and others 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. This is a case of financial fraud, cheating, criminal breach of trust, collection of unregulated deposits and criminal conspiracy committed M/s. Hijau Associates Private Limited / A1 and other accused, who are Chairman, Managing Director, Directors, Board of Members, Committee Members and Manager. The company was promoted by A3 and his wife A5 with a share capital of Rs.1 lakh divided by 10,000 shares which they shared equally and the company has been assigned Company Identification number with 12 directors namely namely A3 to A14 along with their associate entities. The company is not issued with any non-banking finance company licensed by RBI to collect deposits from the public, not sanctioned with any Regulated Deposits Scheme by SEBI and not permitted to collect deposits under the provisions of Companies Act. So far, identified 89,043 depositors for an amount of Rs.4414,44,22,350/-

and complaints were received from 14,521 depositors for a total deposited amunt of Rs.1260 crores. As far as this petitioner is concerned, he had collected a sum of Rs.39,87,00,000/- from 2000 depositors and was responsible for cheating them. This petitioner is the Proprietor of Blessey Agro Traders, through which the amounts have been transferred after collecting from depositors and therefore, if he is released on bail, he might escape from the clutches of law. Hence, he strongly opposed to grant bail to the petitioner.

4.1. In support of his contention, the learned Assistant Public Prosecutor appearing for the State has relied upon the following judgments:

4.1.1. ***Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation reported in (2013) 7 Supreme Court Cases 439.***

4.1.2. Vinod Bhandari vs. State of Madhya Pradesh reported in (2015) 11 Supreme Court Cases 502.

4.1.3. State of Gujarat vs. Mohanlal Jitamalji Porwal and another reported in (1987) 2 Supreme Court Cases 364.

4.1.4. Sohan Singh Rao vs. Union of India reported in 2022 SCC Online Raj 1464.

4.1.5. Nimmagadda Prasad vs. Central Bureau of Investigation reported in (2013) 7 Supreme Court Cases 466.

4.1.6. Serious Fraud Investigation Office vs. Nittin Johari and another reported in (2019) 9 Supreme Court Cases 165.

5. The learned counsel appearing for the internenor has reiterated the arguments advanced by the learned Assistant Public Prosecutor appearing for the State and strongly objected to grant bail to the petitioner.

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

7. Considering the rival submissions on either side, considering the gravity of offences, that huge money is involved in this case and so many persons have deposited their huge, hard earned money and already this Court dismissed the earlier bail application and there is no change of circumstances to consider the present bail application.

8. On perusal of the judgments relied on by the learned Assistant Public Prosecutor it is clear that 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 and 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 the case on hand also, huge amount of public money involved in this case and offences are grave in nature. In view of the said reasons, this Court is declined to grant bail to the petitioner at this stage.

9. Accordingly, the Criminal Original Petition is dismissed.

03.10.2024
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index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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P.DHANABAL,J
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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, Head Quarters Police Station, Economic Offences Wing, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

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