IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2024

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.17412 of 2024

V. Ravichandran S/o. Late K.R. Velu ... Petitioner /A16

Vs

State rep. by:-

The Deputy Superintendent of Police,
Economic Offences Wing [H.Q.],
Ashok Nagar, Chennai. ... Respondent
[C.C. No.10 of 2023]

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 16 in C. C. No.10 of 2023 on the file of the learned Special Judge, Special Court for cases under Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act, 1997, Chennai.

For Petitioner : Mr. N. Muralikumar, assisted by
Mr. R. Gopinathan

For Intervenor: Mr. D. Selvam.

For Respondent : Mr. R. Muniyapparaj,
Assistant Public Prosecutor
Assisted by Mr. M. Sylvester John

ORDER

The petitioner/Accused No.16, who was arrested and remanded to judicial custody on 31.03.2023 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 C. C. No.10 of 2023 on the file of the learned Special Judge, Special Court for cases under Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act, 1997, 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 was arrested and remanded to judicial custody on 31.03.2023. Based on the complaint given by one Nithya, who is said to be one of the depositors, the respondent police have registered the case. According to the case of the prosecution, the A1 company M/s. Hijau Associates Pvt. Ltd., and other accused have committed financial fraud, cheating, criminal breach of trust, collection of unregulated deposits and criminal conspiracy and thereafter failed to repay the deposit amount. This petitioner is arrayed as A16. It is true that the offence involved in the present case is an economic offence and grave in nature, but the petitioner has no

knowledge about the offence committed by the other accused. The said Alexander and his family members, have falsely projected the petitioner and many other initial depositors, to be a part of their company before the general public and had deliberately created records against the petitioner, his wife and other innocent initial depositors, for them to freely escape from the clutches of law. The entire case of the prosecution against the petitioner is false and the petitioner and his wife are innocent persons and they are also depositors as like other depositors / public, who had lost their money with the Alexander and his family. The respondent police without conducting any preliminary enquiry, blindly implicated the petitioner into the present case. The said Alexander, projected the petitioner as Board of Member and his wife as Director without their knowledge. The petitioner and his wife were arrested on 30.03.2023 by the respondent police and they are in judicial custody from 01.04.2023. Already the respondent police have filed the final report and this petitioner is arrayed as A16 and his wife as A12. The trial has not yet commenced. The petitioner did not commit any offence as alleged in the charge sheet. Already similarly placed persons were granted bail.

Hence, he prayed to grant bail to the petitioner.

3.1. In support of his contention, the learned counsel appearing for the petitioner has relied upon the following judgments:-

3.1.1. Kalvakuntla Kavitha vs. Directorate of Enforcement.

3.1.2. Prem Raj vs. The State of Rajasthan reported in 1976 Cri LJ 455.

3.1.3. Gyanu Madhu Jamkhandi vs. The State of Karnataka reported in 1977 Cri. LJ 632.

3.1.4. Ashim @ Asim Kumar vs. National Investigation Agency reported in (2022) 1 SCC 695.

3.1.5. Union of Indiavs. K.A. Najeeb reported in (2021) 3 SCC 713.

3.1.6. Rabi Prakash vs. State of Odisha reported in 2023 SCC Online SC 1109.

3.1.7 M. Eswarappan vs. The State in Crl. O.P. No.20793 of 2023.

3.1.8. Jalauddin Khan vs. Union of India reported in 2024 SCC Online SC 1945.

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. This petitioner / A16 was actively participated as Board of Member, since the inception of the A1 company and his wife is A12, who is one of the Directors of A1 company. The petitioner and his wife, designated as Board Member and Director of A1 company respectively have collected deposits and fraudulently diverted the deposit amounts. The petitioner played a vital role and as on date, 30,292 complaints were received and quantification of the default amount is being done which may reach 2000 crore rupees and therefore, if the petitioner 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 intervenor has reiterated the arguments of the learned Assistant Public Prosecutor appearing for the State.

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 counsel appearing for the petitioner, it is seen that they will not be applicable to the present facts of the case, as the offences in the present case fall under economic offences and huge amount is involved in this case and there is specific overt act attributed as against this petitioner.

9. 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. 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.

10. 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.

11. Accordingly, the Criminal Original Petition is dismissed.

03.10.2024
[5/5]

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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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, Economic Offences Wing [H.Q.], Ashok Nagar, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

P.DHANABAL,J
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[5/5]