Crl. O.P. No.19022 / of 2024

P. DHANABAL.J.,

The petitioner / Accused, who apprehends arrest in the hands of the respondent police for the offence punishable under Section 406 and 420 of IPC in connection with the Cr. No.136 of 2024, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and the defacto complainant are childhood friends, that the petitioner induced the defacto complainant to invest in IPO stocks by giving false representation that it would fetch huge returns upto 30 to 40%, that believing the representation of the petitioner, the defacto complainant had transferred a sum of Rs.1,26,50,000/- in 3 tranches to the bank account of the petitioner and the petitioner did not repay the amount. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner alleging that the defacto complainant was lured by the petitioner to invest money in IPO Stocks, which would fetch huge returns upto 30 to 40%, further believing the representation of the petitioner, he transferred a sum of Rs.1,26,50,000/- in 3 tranches to the petitioner's bank account and when the defacto complainant asked the petitioner about the investment, he gave

evasive replies and thereafter, the petitioner did not return the money, thereby he preferred a complaint and FIR has been registered for the offences under Sections 406 and 420 of IPC against the petitioner. In fact, the petitioner is the real victim of the online trading fraud and he had lost around Rs.2,04,75,000/- and he also preferred a complaint to CCD-I Police, Chennai and FIR was registered in Cr. No.94 of 2024 for the offences under Sections 420, 465, 467, 468 of IPC and Section 66D of Information Technology (Amendment) Act, 2008, that during January 2024, the petitioner saw a facebook advertisement, which appeared to be promoted by IBKR, a US based investment company, which is many years old and a reputed organization, that the petitioner joined their Interactive brokers India Pvt Ltd., whatsapp group on 03.01.2024 via an invite link and daily stock recommendations were provided for buying and selling with good profits, but the same is a fake IBKR group formed to cheat citizens, which the petitioner realized after he was cheated, that the petitioner engaged in stock trading based on the recommendations from IBKR, that the petitioner invested an amount of Rs.140 lakhs in the stock trading and in that stock trading, the defacto complainant has also invested, that this IPO, on the day of listing, went up by 20%, but they were told that they cannot sell, as the stock prices will increase in a week's time and also that it should be a collective selling by all the members, that when this IPO Stock Vibhor Steels got listed, it went up by 325%, then they told the next day that the petitioner can sell both the IPOs, Apeejay Surendra and Vibhor Steels, but they told that they can withdraw their funds along with their profits only after paying their management consulting fee, that then only he came to know that they cheated him and the petitioner lost all his funds and thereby, he filed a complaint before the Cyber Crime and therefore, he has no intention to cheat the defacto complainant and hence, he prayed to grant anticipatory bail to the petitioner.

4. The learned counsel for the intervenor would contend that petitioner is known to the defacto complainant from his childhood and he was talking to the defacto complainant about the potential investment idea and promised the petitioner for the huge returns upto 30 to 40% and induced the petitioner to give money as loan to invest and promised the petitioner that he would use the money and put it in IPO stocks which would give good returns in a short time, that initially he was very hesitant to go ahead with this suggestion, but the accused had once again approached the defacto with inducing words that he had already seen some potential returns and the defacto complainant is missing a big opportunity,

thereby he invested money with the petitioner, that the defacto complainant transferred money to the account of the petitioner to the tune of Rs.1,26,50,000/-, but the petitioner has not invested the money and cheated the defacto complainant and therefore, he prayed to dismiss the petitioner.

5. The learned Government Advocate (Criminal Side) would submit that in the petition, the petitioner has mentioned the name of the stock, where he invested, but no records to show that whether he really invested the money in the said stock, that the defacto complainant paid a sum of Rs.1,26,50,000/- believing that the petitioner will repay with good returns, but the petitioner swindled the money and thereby, the defacto complainant lodged the present complaint and the investigation is at initial stage. Hence he objected to grant anticipatory 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 fact that the petitioner has also given a complaint before Cyber Crime police in respect of stock scam and even as per the defacto complainant, he transferred the money to the petitioner's account for investing the same in the stock market and on perusing the transfer of amount to the account of

the petitioner by the defacto complainant, some transactions reveal that the amount was transferred as loan, that there is no previous case pending against the petitioner and also considering the fact that the petitioner has already appeared before the respondent police for enquiry and considering the nature of transactions between the petitioner and the defacto complainant, I am inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned **Metropolitan Magistrate [Exclusive trial for CCB and CBCID Cases), Egmore, Chennai** on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioner shall report before the respondent police on daily at 10 a.m. until further orders;

[b] 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;

[c] the petitioner shall not leave India without the previous permission of the Court;

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

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

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

25.09.2024

mjs

To

1.The Metropolitan Magistrate [Exclusive trial for CCB and CBCID Cases), Egmore, Chennai
2. The Public Prosecutor, High Court, Madras.
3.The Inspector of Police, Central Crime Branch-I, Vepery, Chennai-600 007..

P.DHANABAL,J
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25.09.2024