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CRL O.P. No.20673 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

CRL OP.No.20673 of 2024

M.Kalaiselvan

... Petitioner / Accused

Vs

State rep. by
The Inspector of Police,
T-3, Korattur Police Station,
Chennai.

... Respondent

[Cr. No.365 of 2023]

PRAYER: - The Criminal Original Petition is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023, praying to enlarge the Petitioner on bail in Crime No.365 of 2023, on the file of the respondent.

For Petitioner : Mr.L.Rajendran

For Respondent : Mr.S.Vinothkumar
Government Advocate
(Criminal Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 11.08.2024 for the offences punishable under Sections 406 and 506(1) of IPC, in Crime No.365 of 2023, on the file of the respondent, seeks bail.

2.The case of the prosecution is that the petitioner is a builder. The defacto complainant approached the petitioner for construction of a building and an advance amount of Rs.1,00,000/- was paid to the petitioner and further sum of Rs.3,00,000/- was also paid. While so, the said construction was not completed by the petitioner within the time as fixed in the agreement and the materials, which brought for the said construction, were also used for some other site, when the defacto complainant questioned the same, the petitioner threatened the defacto complainant by his henchmen and refused to return the balance of Rs.3,00,000/-. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He



would further submit that due to non payment of balance amount, the petitioner could not further process the work. He would further submit that the petitioner is ready to abide by any condition that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) for the respondent would submit that the petitioner, being a builder, in order to construct a building for the defacto complainant, has received Rs.4,00,000/- and thereafter, he neither constructed the building nor returned the amount and thereby cheated the defacto complainant. He would further submit that there is no previous case against the petitioner. However, he opposed to grant bail to the petitioner.

5. Heard both side learned counsel and perused the materials available on record.

6. Considering the representation made by both side learned counsel and considering the nature of allegations made against the petitioner in the FIR and also taking into consideration the number of days of incarceration undergone by the petitioner and all other aspects, this Court is inclined to grant bail to the petitioner subject to the following conditions:



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[a] Accordingly, the Petitioner is ordered to be released on bail on condition to 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 **Judicial Magistrate, Ambattur, Chennai**, and on further conditions that;

[b] the Petitioner shall report before the respondent police, everyday at 10.30 a.m., until further orders;

[c] the Petitioner shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[d] 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;

[e] the Petitioner shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Judicial 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]; and

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

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To

- 1.The Judicial Magistrate, Ambattur, Chennai.
- 2.The Inspector of Police,
T-3, Korattur Police Station,
Chennai.
- 3.Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor, High Court, Madras.



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P.DHANABAL,J.
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