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CRL O.P. No.21017 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :29.08.2024

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

CRL OP.No.21017 of 2024

K.Gowtham

... Petitioner / Accused-5

Vs

State rep. by
The Deputy Superintendent of Police,
State Cyber Crime Investigation Centre,
Cyber Crime Wing Head Quarters,
Chennai.

... Respondent

[Cr. No.25 of 2024]

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.25 of 2024, on the file of the respondent.

For Petitioner : Mr.G.Mohanakrishnan

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 13.07.2024 for the offences punishable under Sections 420 and 468 of IPC and Section 3 of Indian Wireless Telegraphy Act, 1933, Section 25 of the Indian Telegraph Act, 1885, Sections 65, 66C and 66D of the Information Technology Act, 2000 and Section 17(i)(a) of the Bureau of Indian Standards Act, 2016 in Crime No.25 of 2024, on the file of the respondent, seeks bail.

2.The case of the prosecution is that the petitioner is running a shop in the name and style of M/s.Commworld. The defacto complainant is the Deputy Director General (Security), Department of Telecommunication, TNLSA, Ministry of Communication and he lodged a complaint, alleging that illegal setups were found operational at Saidapet, Triplicane, Adyar and Ambattur, involved in sending bulk SMS through 10 digit mobile numbers through fraudulent means which is violation of TRAI TOCCPR 2018 guidelines. On investigation, it was found that A4 procured more than 500 SIM cards from various customers



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in the name of his Company and handed over to the petitioner. In turn, the petitioner used the SIM cards in the bulk SMS Modem which was purchased from China by A1 to A3 with 512 SIM slots without any license and thereby the accused caused huge loss to the Telecom Authority. 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 the petitioner has been in custody for more than 46 days. He would also submit that co-accused in this case was already released on bail and the petitioner is ready to abide by any stringent 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 along with the other accused/A4, purchased more than 500 SIM cards in the name of A4's Company and used the same in illegal operations on Telecommunication service of the defacto complainant and caused huge loss to the Telecom Authority. He



would further submit that investigation is still pending and co-accused has been enlarged on bail and there is no previous cases pending against the petitioner. However, he vehemently 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 that already co-accused was released on bail by the learned Magistrate, nature of offence, no previous case is pending against the petitioner and that the number of days of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

[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 **XI Metropolitan Magistrate, Saidapet**, and on further conditions that;

[b] the Petitioner shall report before the jurisdictional Magistrate on all working day at 10.30 a.m., for a period of 30 days and thereafter, as and when required for interrogation;



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[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.

29.08.2024

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- 1.The XI Metropolitan Magistrate, Saidapet.
- 2.The Deputy Superintendent of Police,
State Cyber Crime Investigation Centre,
Cyber Crime Wing Head Quarters,
Chennai.
- 3.Central Prison, Puzhal.
- 4.The Public Prosecutor, High Court, Madras.



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P.DHANABAL,J.
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