IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.10.2024

Pronounced on : 18.11.2024

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.24195 of 2024

Michale Raj S/o. Salesh ... Petitioner /Accused

Vs

State rep. by:-

The Additional Superintendent of Police,
Economic Offences Wing-II,
HQRS, Chennai. ... Respondent
[Cr. No.7 of 2022]

PRAYER: - The Criminal Original Petition is filed under Section 483 of B.N.S.S., praying to grant bail to the petitioner/Accused in Crime No.7 of 2022 on the file of the respondent police.

For Petitioner : Mr. Durai Kannan

For Respondent : Mr. R. Muniyapparaj,
Additional Public Prosecutor,
assisted by
Mr. Sylvester John

ORDER

The petitioner/Accused, who was arrested and remanded to judicial custody on 28.03.2023 for the offences punishable under Sections 409, 120-B, 420, 406, 201, 204, 109, 34 of IPC read with Section 3, 5, 21(1), 21(2), 21(3), 23 and 25 of Banning of Unregulated Deposit Schemes Act 2019 and Section 58(B) of Reserve Bank India Act, 1934 and Section 5 of Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997 and in Cr. No.7 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that A1 Aarudhra Gold Trading Pvt. Ltd., and other accused invited deposits through advertisements in websites and social media at 21 branches in Aminjikarai, Anna Nagar, Perungalathur, Urapakkam, Avadi, Villivakkam, Chengalpattu, Uthiramerur, Tiruvallur, Nemili, Kanchipuram, Aarani, Cheyyar, Mangal SIPCOT, Vellore, Ranipet, Trichy, Madurai, Palayamkottai, Tirunelveli, Hosur and Krishnagiri and had been collecting deposits from the public with false promise of repaying exorbitant interest at the rate of 10% to 30% per month. As per the FIR, Rs.2522.63 crores were collected from 1,09,255 depositors through 30 bank accounts of the company and its

Directors from the year 2020 and cheated the depositors. Hence the case.

3. The learned counsel for the petitioner would contend that this petitioner has been arrayed as A14 in this case in Cr. No.7 of 2022 for the alleged offences under Sections 409, 120-B, 420, 406, 201, 204, 109, 34 of IPC read with Section 3, 5, 21(1), 21(2), 21(3), 23 and 25 of Banning of Unregulated Deposit Schemes Act 2019 and Section 58(B) of Reserve Bank India Act, 1934 and Section 5 of Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997. The prosecution case is that the petitioner is one of the Directors of Arudhra Gold Trading Private Limited and he also associated with four group of companies of the group and closely associated with A9/Rajasekar Veeraragavan, who dealt with bank transaction of the companies and also assigned the work of collection of deposits through online from the public and settlement of payouts and actively involved in diversion of funds running to crores in connivance with other accused. He escaped to Dubai on 23.05.2022 and stayed along with A9/Rajasekar Veeraraghavan, A12/Senthil Kumar and A15/Usha Vetrivel until his

arrest on 28.03.2023 and he was arrested in International Airport at Chennai based on the Lookout Circular issued. In fact the petitioner was falsely implicated in this case and there is no prima facie material evidence for the alleged offences. He is an innocent and he had not committed any offence as alleged in the FIR and charge sheet. The petitioner has no any bad antecedent and keeping him inside indefinitely will not serve any purpose. Already A10 to A13, A19 to A22, A29, A36 and A38 were granted mandatory bail. Therefore, he prays to grant bail to the petitioner.

3.1. In support of his contention, the learned counsel appearing for the petitioner has relied upon judgment in ***Sanuj Bansal v. The State of Uttar Pradesh and another in Special Leave to Appeal (Crl) No.10536 of 2023.***

4. The learned Government Advocate (Criminal Side) would submit that totally there are 40 accused, out of 40 accused A1 to A8 are companies and A9 to A40 are the accused persons. Out of 32 accused,

26 accused were arrested and remanded to judicial custody. M/s. Aarudhra Gold Trading Private Limited/A1, so far collected deposits around Rs.2438 crores from about 1,09,255 depositors. The accused have not registered the company under SEBI Act. After registration of charge sheet on 20.05.2022, the principal conspirator Rajasekar Veeraraghavan/A9 along with Usha Vetrivel/A15, Senthilkumar/A12 and this petitioner, who is arrayed as A14 and one of the Directors of the A1 company, absconded to Dubai, they concealed the documents related to the investment collection of A1 company on connivance with A35 Chandrakkannan and even destroyed some crucial information stored in the computers. They purposefully diverted huge amount of Cash to Dubrai with the help of A38/Pechimuthuraj @ Rafeeq. As far as this petitioner is concerned, he is involved in the collection of deposits through online from the public and he has also diverted hundred of crores to private accounts in connivance with A9 and thereby caused misappropriation of funds. The petitioner/A14 along with other accused conspired to collect the unregulated deposits and regularly participated in the meetings of other Directors at the Star hotels, attended all inaugual

functions of new branches of A1 company and involved in the canvassing and promotion of the deposit schemes of A1 comapny. Charge sheet was filed in this case with the list of absconding accused and after registration of FIR, this petitioner was arrested based on the Look Out Circular. Many complaints have been received and micro level investigation is required. The further investigation reveals that the number of complaints and the quantum of money is being increased. This petitioner is directly involved in diversion of amount around Rs.148 crores to third parties through the bank accounts of the company. In this case, huge money collected from lot of persons, is involved. Some more witnesses have to be examined to find out the truth regarding the diversion of money and transfer of properties done by the petitioner/accused and also A9, A15 are all absconding. Hence, at this stage,the petition is liable to be dismissed.

4.1. The learned Government Advocate appearing for the State has relied upon the following judgments in support of his contention.

4.1.1. ***Y.S. Jagan Mohan Reddy vs. Central Bureau of***

Investigation reported in 2013(7) SCC 439.

4.1.2. State of Gujarat vs. Mohanlal Jitamaji Porwal reported in 1987 Supreme Court Cases 364.

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

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

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

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

6. Considering the rival submissions made on either side, considering the fact that further investigation is still pending and this petitioner was arrested based on the Look Out Circular and he is also one of the prime accused, who acted as one of the Directors of the A1 company, that huge money of public is involved in this case and also considering the gravity of offences, I am declined to grant bail to the petitioner at this stage.

7. As far as the judgment relied upon by the learned counsel appearing for the petitioner is concerned, it will not be applicable to the present facts of the case as the facts are distinguishable.

8. As far as the judgments relied on by the learned Additional Public Prosecutor are concerned, the Hon'ble Supreme Court held that while dealing social economic offences, the Court meant to be very conscious and observed, the character of the accused, circumstances which are peculiar to economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The Econonic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country and also 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. In the case on hand also, the allegations as against this petitioner are serious in nature and he was one of the Directors of the accused company. Therefore, the said case laws are

squarely applicable to the present facts of the case.

9. Accordingly, the Criminal Original Petition is dismissed.

18.11.2024
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index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
mjs

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 Additional Superintendent of Police, Economic Offences Wing-II, HQRS, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

CRL. O.P. No.24195 of 2024

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