IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM

THE HON'BLE MR. JUSTICE **P.DHANABAL**

Crl.O.P.No.26682 of 2024

D.Magimainathan ... Petitioner

Vs.

State Represented by,
The Deputy Superintendent of Police,
Economic Offences Wing,
Guindy.
Crime No.14 of 2024. ... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleased to enlarge the petitioner on bail in Crime No.14 of 2024 on the file of the respondent police.

For Petitioner : Mr.John Sathyan, Senior Counsel for Mr.A.Muthukumar

For Respondent : Mr.E.Raj Thilak, Additional Public Prosecutor

For Intervenor : Mr.R.Thirumoorthy

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 14.08.2024, for the alleged offence under Section 409, 420, 34 and 22 of BUDS Act and Section 5 of the TNPID Act, subsequently, the FIR was altered on 16.08.2024 by the respondent police as Sections 316(5), 318(4) read with Section 3(5) of the BNS Act and Section 22 of the BUDS Act and Section 5 of the TNPID Act, in Crime No.14 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant had deposited amounts in various schemes to the tune of Rs.46,49,180/- with the 1st accused Benefit Fund and that the amount had matured, and the due date had arrived for repayment of the deposit amount to the complainant. The depositor had demanded the maturity amount, but the same has not been paid to him. Hence, the complaint.

3. Mr.John Sathyan, learned Senior Counsel appearing for the petitioner submitted that the respondent police has registered a false case

against the petitioner and others under Sections 409, 420, 34 of IPC and Section 22 of BUDS Act and Section5 of the TNPID Act and thereafter, FIR was altered under Sections 316(5), 318(4) read with Section 3(5) of the BNS Act and Section 22 of the BUDS Act and Section 5 of the TNPID Act. The petitioner was arrayed as 5th accused and he was arrested and remanded to judicial custody on 14.08.2024. He further submitted that based on the complaint given by the defacto complainant, the respondent police registered an FIR alleging that the defacto complainant had deposited amounts in various schemes to the tune of Rs.46,49,180/- with the 1st accused benefit fund and the amount had matured and the due date had arrived for repayment of the deposit to the complainant, but the said matured amount was not repaid to him. In fact, the entire amount had not matured as alleged in the FIR, the amount of Rs.28,68,814/- had matured on 26.07.2024 and rest of the amounts were pre-closured. The petitioner was arrested without being afforded any enquiry or summons and already the petitioner had moved a bail application and the same was dismissed. Meanwhile, a search was conducted on 17.08.2024 in respect of the aforesaid matter by the respondent police at 11 places, including the residence of all the directors of the 1st accused Company. The 1st accused company was sealed and closed on

17.08.2024 and all the records, documents, computers and other materials maintained by the 1st accused were seized and taken by the respondent police.

3.1. Even according to the prosecution case, the total amount involved in this case is Rs.500 crores. The amount lying with the 1st accused, which is around 250 crores, was frozen along with the account, and properties worth more than 300 crores were attached by the respondent police. Therefore, the attached amounts are sufficient to settle the amount. The petitioner is the independent director of the company, and the long incarceration will not serve any purpose, therefore, the petitioner may be released on bail. Hence, he prays to grant bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the defacto complainant, namely Prasanth, had given a complaint before the respondent police that he invested money in the Mylapore Hindu Permanent Fund Nidhi Limited and was assured that if he invested money in the company, he would receive more profit as there were several schemes available. Believing the words of the

Manager of the said company, the defacto complainant invested a sum of Rs.46,49,180/- in more than 30 schemes, and after maturity of the amount, when he approached the 1st accused company, there was no response from the accused. Thereafter, he came to know that the accused lured various people with attractive schemes, with a total amount of Rs,54,63,211/- that had been cheated by the accused and he filed a complaint before the respondent police.

4.1. Based on the complaint, the respondent police registered the FIR in Crime No.14 of 2024 for the offence 409, 420, 34 and 22 of BUDS Act and Section 5 of the TNPID Act, subsequently, the FIR was altered on 16.08.2024 by the respondent police as Sections 316(5), 318(4) read with Section 3(5) of the BNS Act and Section 22 of the BUDS Act and Section 5 of the TNPID Act against the accused and that the accused was arrayed as 5th accused in this case. On investigation, it was revealed that there are several schemes introduced by the 1st accused company with interest from 8% to 12% and a complaint was received from the victim, for the tune of 557 crores from 4,808 investors. This petitioner colluded with A2 and other directors cheated the investors by defrauding them, and they made huge profits fraudulently in the name of 1st accused on various schemes. The petitioners/A2, A3 and A5 were arrested on 13.08.2024 and remanded to judicial custody on 14.08.2024. The 6th accused was arrested on 05.09.2024. The case is under investigation and already the petitioner filed bail application and the same was dismissed on 28.08.2024 before the Special Judge under TNPID Court, Chennai. This petitioner is a responsible person of the company and he is an authorized person to the bank accounts maintained by Mylapore Hindu Permanent Fund Nidhi Limited and as the authorized signatory, he has to sign on cheques to withdraw the cash. The petitioner along with other directors, has not paid the maturity deposited amounts to the people. A huge amount is involved in this case, more over 21,836 fake accounts were created between 2018-2023 using the KYC of the depositors for ornamental loans to the tune of Rs.303,06,60,615/- crores. Additionally, 1357 kg of gold was also misused from the fund. This petitioner has been involved in the day-to-day activities of the company and handled the fund since 2015 until the date of arrest. Therefore, he strongly opposes to grant bail to the petitioner.

5. Learned counsel for the intervenor sought an adjournment, but

this matter has already been posted twice before this Court and is not ready for argument. Therefore, this court declines to grant adjournment at the request of the intervenor and passed the order.

6. Heard both sides and perused the materials available on record including the First Information Report.

7. Considering the representation made by both side counsel and considering that the case is under investigation, and the huge public money is involved in this case and also considering the gravity of the offence, this Court is declined to grant bail to the petitioner, at this stage. Therefore, this Criminal Original Petition is dismissed.

16.12.2024

drl

P.DHANABAL, J.

drl

To

1.The Deputy Superintendent of Police,
Economic Offences Wing,
Guindy.

2.The Public Prosecutor,
High Court, Madras.

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