IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.12.2024

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.26527 of 2024

R. Malathi W/o. Ramachandran ... Petitioner /Accused No.20

Vs

State rep. by:-
The Additional Superintendent of Police,
Economic Offences Wing-II,
Ashok Nagar, 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. R. Sasikumar

For Respondent : Mr. E. Raj Thilak,
Additional Public Prosecutor
[Criminal side]

ORDER

The petitioner/Accused No.20, who was arrested and remanded to judicial custody on 25.05.2023 for the offences punishable under Sections 120-B, 420, 406 of IPC and Sections 3 and 5 of BUDS Act, 2019 and Section 58(B)(i) of RBI Act, 1934 altered to Sections 420, 406, 409, 120-B, 201, 204, 109 r/w 34 of IPC, Section 5 of TNPID Act 1997 and Section 3, 5, 21(1), 21(2), 21(3), 23 and 25 of BUDS Act 2019 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 the respondent police have registered a false case against the petitioner and others in Cr. No.7 of 2022 for the offences under Sections Sections 420,

406, 409, 120-B, 201, 204, 109 r/w 34 of IPC, Section 5 of TNPID Act 1997 and Section 3, 5, 21(1), 21(2), 21(3), 23 and 25 of BUDS Act 2019. Already investigation was completed and final report was filed. The allegation against the petitioner in the final report is that this petitioner was working as Additional Director of A1 company and directly collected unregulated deposits by involving 26 agents and collected an amount to the tune of Rs.10 crores from 320 depositors and she has offered a commission of 5 with 1 gram gold coin for each Rs.1 lakh collected by the agents and she has participated in the meetings of Directors and inaugural function conducted in star hotels in Tamil nadu and other States organized by A1 company. In fact, she never been the Additional Director of the A1 company at any point of time and she was an employee and entrusted to look after the Aminjikarai Branch of the A1 company besides other employees under various categories worked therein. Even according to the prosecution case, she and other agents received the salaries and commissions offered by the A1 company in the event of collection of deposits and paid the said agents and she only collected deposits and deposited into the Headquarters branch of A1 company. Considering her role and the nature of her work in the said company, she should have been cited as a witness in the said case and she is also one among the victims, who lost money and reputation. Even before, she was taken into custody, she was very much available and co-operated for the preliminary investigation done by the respondent police. Investigation was completed and charge sheet was also filed. The case is pending in C.C. No.9 of 2023 on the file of Special Judge, Special Court for TNPID Act cases, Chennai. This is the 6th bail application before this Court and the earlier bail applications were dismissed. The petitioner is in custody from 25.05.2023. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Criminal Side) would submit that as far as this petitioner is concerned, she was nominated by the prime accused Rajasekar Veeraraghavan/A9 as one of the Directors of Aminjikarai, Headquarters Branch of A1 company. As Aminjikarai Headquarters Branch was ranking first in the collection of deposits, this petitioner along with A18 to A120, nominated as Additional Directors. She has directly participated in the occurrence and she only received

money, silver, gold and documents from the public. Money was seized and the bank accounts of the accused have also been frozen. The accused have not registered the company under SEBI Act. Preliminary charge sheet was filed and thereafter many complaints received and hence micro level investigation is required. Further investigation reveals that the number of complaints and the quantum of money is being increased and 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 and A15 were absconding to United Arab Emirates. A9, the Managing Director was arrested in Abudhabi and extradition process is underway. The absconding accused A9 and A15 are to be secured and interrogated. Witnesses have to be examined and the properties have to be recovered. 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 is also one of the prime accused, who acted as one of the Additional 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 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 Additional Directors of the accused company. Therefore, the said case laws are squarely applicable to the present facts of the case.

8. Accordingly, the Criminal Original Petition is dismissed.

02.12.2024

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

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, Ashok Nagar, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

P.DHANABAL,J
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