IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.12.2024

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.29950 of 2024

Raja Senthamarai ... Petitioner /Accused-23

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 : Ms. T. Gnana Banu

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

ORDER

The petitioner/Accused, who was arrested and remanded to judicial custody on 24.04.2023 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 the respondent police have registered a false case as against this petitioner and he has been arrayed as A23 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. In fact, this petitioner is only a depositor / investor and other than that there is no transaction between the said company and the petitioner. He is also running a business in the name of GKM Catering Service, GKM Subhamangalam Tour and Travels Ltd., and GIM Impex Pvt. Ltd., and all the transactions in the bank were only business transactions. During the month of May 2022, the petitioner and his brother's account were frozen by the respondent bank. This petitioner has been arrayed as an accused in this case based on the confession statement given by the co-accused. Only to harass the petitioner, the respondent police arrested him and there is no any complaint as against this petitioner. The petitioner is in

custody for more than one and half years. Some of the co-accused were released on bail in this case. The petitioner is no way connected with this crime and hence he prayed to grant bail to the petitioner.

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. This petitioner is arrayed as A26. 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 Micheal Raj/A14, 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 Dubai with the help of

A38/Pechimuthuraj @ Rafeeq. As far as this petitioner is concerned, this petitioner/A23 has acted as Branch Director of Kanchipuram Branch of A1 company, was involved in the collection of illegal deposits from the depositors and he was initially acted as one of the Agents under A16 and thereafter he was nominated as the Branch Director. He has collected around Rs.86 crores from 2915 depositors. He had induced the public to deposit more and more and collected deposits as in the capacity of Branch Director of A1 Company in Kanchipuram Branch. Huge amount has been diverted to the bank account of this petitioner. 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. 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 absconding accused are to be secured. 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 as per the prosecution case, there are Managing Directors, Directors, Nominated Directors and Branch Directors and this petitioner comes under the category of Branch Director of Kanchipuram

Branch of A1 Company and he was said to be the Director of a particular Branch at Kanchipuram, the petitioner was an employee under the A1 Company and he only acted as collecting agent for the company and he is not a Managing Director or the Director of the company and this petitioner is in judicial custody from 24.04.2023 and there is no previous case pending against this petitioner, investigation was also completed and further investigation is pending in a particular aspect no any properties were recovered from this petitioner during the investigation and already some of the co-accused were released on bail by this Court.

8. As far as the judgments relied on by the learned Additional Public Prosecutor appearing for the respondent police are concerned, they will not be applicable to the present case as this petitioner is not a Director or Managing Director of the A1 company and he was the Manager of a particular branch of the main accused company and hence, I am 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 learned **Special Judge, Special Court for exclusive trial of cases under Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997, Chennai** and on further conditions that:

[b] the petitioner shall report before the Special Judge, Special Court for exclusive trial of cases under Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997, Chennai on all working days at 10.30 a.m. until further orders;

[c] the petitioner shall not commit any offence 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 abscond either during investigation or trial;

[e] 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 or tamper with the evidence;

[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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

04.12.2024

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, HQRS, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

P.DHANABAL,J
mjs

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