



Crl.R.C.(MD) No.1350 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD) No.1350 of 2023

K.Sekar

...Petitioner/

Petitioner/Accused

Vs.

State rep by
The Inspector of Police,
City Crime Branch Police Station,
Trichy District.
In Crime No.10/2023

**...Respondent/
Complainant**

PRAYER : Criminal Revision Case has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the impugned order dated 22.11.2023 made in Cr.M.P.No.36621 of 2023 passed by the learned Judicial Magistrate No.I, Trichy and set aside the same and enlarge the petitioner on bail.



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For Petitioner : Mr.A.Arun Prasad

For Respondent : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed against the impugned order dated 22.11.2023 in Cr.M.P.No.36621 of 2023 passed by the learned Judicial Magistrate No.I, Trichy.

2. Learned counsel for the petitioner submits that the petitioner is the father of the first accused and he was arrayed as A2 in Crime No.10 of 2023 for the alleged offences under Sections 420, 294(b), 506(ii) and 34 of IPC on the file of the respondent police. The allegation against the petitioner is that he swindled the investor's money deposited in the chit fund run by the defacto complainant.

3. The grievance of the petitioner is that though charge sheet was not filed on the date of filing of the bail application by the petitioner under Section 167(2) of Cr.P.C., the Court below has failed to consider the same. In this case, the learned Magistrate has received the bail application on



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06.11.2023, whereas the charge sheet was filed only on 14.11.2023 and hence, the Court below ought not to have dismissed the petition.

4. Learned counsel for the petitioner submits that A1 was also released on statutory bail. In support of his submission, learned counsel relied upon the judgment of the Hon'ble Supreme Court in ***Bikramjit Singh v. The State of Punjab*** in Crl.Appeal No.667 of 2020 and the order of this Court in ***Umadevi v. State*** reported in 2019 (1) MWN (Cr.) 244.

4. Per contra, learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner has filed bail application in Crl.M.P.No.5102 of 2023 before the learned Principal District and Sessions Judge, Trichy and the same was allowed on 16.10.2023 imposing condition on the petitioner to deposit a sum of Rs.10,00,000/- to the credit of the crime number and to produce property surety to the value of Rs. 25,00,000/- i.e., 50% of the amount due to the defacto complainant along with executing own bond and two sureties. Thereafter, the petitioner has filed a modification petition in Crl.M.P.No.5510 of 2023 dated 04.11.2023 before the learned Principal District and Sessions Judge, Trichy which was



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dismissed stating that, there was no valid reason to modify the conditions.

Again, the petitioner has filed a statutory bail application in Crl.M.P.No. 34553 of 2023 under Section 167(2) of Cr.P.C. before the learned Judicial Magistrate No.1, Trichy, however, the same was dismissed as not pressed on 01.11.2023 on the ground of maintainability.

5. Thereafter, the petitioner has filed another bail application on 04.11.2023 before the same Court and the same was returned stating that, the petitioner has not been given any liberty to file a fresh bail application with the same relief. Aggrieved over the same, the petitioner has approached this Court by way of filing Crl.O.P.(MD) No.20708 of 2023 dated 20.11.2023 and this Court, after setting aside the order, directed the trial Court to entertain the application on judicial side and decide the same on its own merits. Thereafter, the petitioner has filed a bail application under Section 167(2) of Cr.P.C. in Crl.M.P.No.36621 of 2023 dated 22.11.2023 before the learned Judicial Magistrate, however, the same was dismissed on the ground that final report has already been filed by the Investigation Officer on 14.11.2023 and taken cognizance by the trial Court and hence, the said application has become infructuous. Challenging



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the same, the petitioner has filed the present application.

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6. He further submitted that rejection of default bail application after filing of charge sheet is a well established procedure laid down in Section 167 of Cr.P.C. and hence, prayed for dismissal of this revision.

7. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor.

8. Since the bail application was filed prior to filing of the charge sheet, the petitioner is entitled to be released on Statutory Bail and also considering the legal propositions laid down by the Hon'ble Supreme Court in ***Bikramjit's*** case and the order of this Court in ***Umadevi's*** case, this Court is inclined to grant bail to the petitioner on the following terms:-

- i) The petitioner shall execute a bond for a sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like-sum to the satisfaction of the learned Judicial Magistrate No.I, Trichy;



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ii) The petitioner shall appear and sign before the respondent police daily at 10.30 a.m. and 05.30 p.m., until further orders;

iii) On breach of any of the aforesaid conditions, the learned Judicial Magistrate No.I, Trichy, 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

iv) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

7. With the above directions, this Criminal Revision Case is disposed of.

15.02.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes / No
PKN



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To

1. The learned Judicial Magistrate No.I, Trichy.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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VIVEK KUMAR SINGH, J.

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