

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2483 of 2024

ORDER:

This Criminal Petition is filed by the petitioner – accused under Section 439(1)(b) read with Section 482 of Code of Criminal Procedure to relax and set aside condition No.(ii) while granting bail to the petitioner – accused in CrI.M.P.No.79 of 2024 in Crime No.11 of 2024 of PS Inthezargunj by the learned Principal Sessions Judge, Warangal.

2. Heard the learned counsel for the petitioner – accused and the learned counsel for the respondent No.1 – State.

3. Learned counsel for the petitioner submitted that the respondent No.1 – Police registered the above crime for the offence under Section 420 of IPC and Section 5 of the Telangana Protection of Depositors of Financial Establishments Act, 1999. On 13.01.2024, the petitioner was arrested and remanded to judicial custody. Upon dismissal of the first bail petition, the petitioner filed the second bail petition and the same was allowed. But while allowing the application, the Court imposed a condition to deposit the original title deeds of the property of the petitioner and in the absence of his own property, to deposit the title deeds of the property of the surety in addition to the surety amount. The trial court

erred in directing the petitioner to produce title deeds of the petitioner / surety holders. The production of the title deeds of the petitioner / surety holders had no bearing on the proceedings before the trial court. The said condition was in gross violation of Sections 130 and 131 of the Indian Evidence Act and Articles 14, 19, 20 and 21 of the Constitution of India. The trial court failed to note that the allegations did not even constitute the offence under Section 5 of the Telangana Protection of Depositors of Financial Establishments Act, 1999 and that the remand of the petitioner itself was illegal and relied upon the judgment of the Madras High Court in **Sagayam @ Devasagayam v. State**¹ represented by the Inspector of Police, Chetpet Police Station, Chennai.

4. Learned Additional Public Prosecutor on the other hand contended that the petitioner was alleged to have cheated the victims who deposited the money to an extent of Rs.3,00,00,000/- (Rupees Three Crore) and to secure his presence during the trial, the learned Principal Sessions Judge, Warangal had imposed the above condition while granting the bail and opposed relaxation of the above condition.

5. Perused the record, the allegations made against the petitioner – accused and the conditions imposed by the learned Principal Sessions Judge, Warangal while granting bail in CrI.M.P.No.79 of 2024 in Crime No.11 of 2024 of

¹ CrI.M.P.No.3888 of 2017 in CrI.O.P.No.2891 of 2017 dated 24.04.2017

Inthezargunj Police Station and the judgment of the High Court of Madras in **Sagayam @ Devasagayam v. State** (cited supra).

6. As seen from the report lodged by the de-facto complainant, the petitioner – accused who was a Corporator of 26th Division of Greater Warangal Municipal Corporation was running chits and induced the de-facto complainant and other members to join in a chit and after collecting the amount failed to pay the chit amount and was dodging the matter. Basing on the said report, Crime No.11 of 2024 was registered against the petitioner – accused for the offence under Section 420 of IPC and Section 5 of the Telangana Protection of Depositors of Financial Establishments Act, 1999.

7. The learned Principal Sessions Judge while granting bail to the petitioner – accused observed that the allegations against the petitioner appeared to be transaction of chit and whether the case was attracting Section 5 of the Telangana Protection of Depositors of Financial Establishments Act, 1999 could be looked into at the time of trial. Considering that there was a seizure of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs) in connection with crime as per the confession cum seizure panchanama of the accused and considering the other grounds raised by the petitioner – accused, the learned Principal Sessions Judge, Warangal granted bail to the petitioner subject to the following conditions:

(i) The petitioner is directed to furnish personal bond for Rs.50,000/- with two sureties for like sum to the satisfaction of I Additional Judicial First Class Magistrate, Warangal.

(ii) The petitioner is further directed to deposit the original title deeds of his own property and in the absence of his own property he would deposit the title deeds of the property of the surety in addition to the surety as mentioned above.

(iii) The petitioner shall attend before the Station House Officer concerned on every fortnight from 10:00 AM to 05:00 PM, as directed by the Station House Officer or till filing of charge sheet.

(iv) The petitioner shall not involve in any similar type of offence and not influence the witnesses pending investigation and main good behavior.

8. The petitioner was now challenging condition No.(ii) imposed by the learned Principal Sessions Judge, Warangal.

9. The High Court of Madras in **Sagayam @ Devasagayam v. State** (cited supra) relied by the learned counsel for the petitioner after a detailed consideration of all the relevant provisions under the Code of Criminal Procedure and after considering the various judgments of the Hon'ble Apex Court in **Moti Ram and Others v. State of Madhya Pradesh**² and in **Raghuvir Singh and Others v. State of Bihar**³, held that:

² (1978) 4 SCC 47

³ 1986 SCC (Criminal) 511

“59. From the above, it is very clear that a Court cannot demand production of property documents from the accused, surety. No where in Section 436 or 437 or 439 or 438 Cr.P.C. or in Form No.45 appended to Schedule II to the Code of Criminal Procedure, 1973, production of property document, title deeds, etc. either by surety or by the accused has been contemplated.

60 So a Magistrate or a Sessions Judge or any Court, demanding production of property documents or R.C. book or any other document to show proof of property either movable or immovable with respect to the bail bond or surety bond amount is against law. It is against Article 21 of Constitution of India. It is against the dictum of the Hon'ble Supreme Court judgment laid down in **Maneka Gandhi vs. Union of India** [AIR 1978 SC 597].

and gave a direction to all the Sub-ordinate Courts that production of property documents / VAO Certificate / R.C. book shall not be insisted upon from the accused or from the sureties.

10. This Court also agrees with the view taken by the High Court of Madras in the said regard. As such, it is considered fit to set aside condition No.(ii) in CrI.M.P.No.79 of 2024 in Crime No.11 of 2024 imposed by the learned Principal Sessions Judge, Warangal in directing the petitioner – accused to deposit the original title deeds of his own property or the title deeds of the properties of the sureties. All other conditions imposed by the learned Principal Sessions Judge, Warangal hold good.

11. In the result, the Criminal Petition is allowed setting aside condition No.(ii) imposed by the learned Principal Sessions Judge, Warangal while granting bail to the petitioner – accused in CrI.M.P.No.79 of 2024 in Crime No.11 of 2024.

As a sequel, miscellaneous applications pending in this petition, if any shall stand closed.

Dr. G.RADHA RANI, J

Date: 06th March, 2024
Nsk.