IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2025

CORAM

THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.20639 of 2025

Dilipraj Pukkella
The Director of Vihaan Direct Selling
(India) Private Limited,
S/o.Pukkella Dwaraka Thirumal Rao ... Petitioner/A3

Vs

The State
by the Deputy Superintendent of Police,
Economic Offences Wing,
Kancheepuram, Kancheepuram District.
(Crime No.02 of 2019) ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 praying to enlarge the petitioner on bail in the event of arrest by the respondent police in connection with C.C.No.06 of 2025 pending on the file of the learned Special Judge (TNPID Court) at Chennai.

For Petitioner : Mr.A.Ramesh, Senior Counsel
for Mr.Shreehari Kutsa
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 420, 409, 109 and 120(b) of IPC r/w Section 5 of the TNPID Act, 1997 and Section 21(1)(2)(3) and 23 of the BUDS Act in C.C.No.06 of 2025, on the file of the learned Special Judge (TNPID Court) at Chennai, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant got acquainted with one Puja Kumari/A16, who induced her to invest a sum of Rs.3.5 lakhs under the false pretext of receiving profits from an e-commerce business known as Q-Net/petitioner company. The de-facto complainant deposited the said amount to Puja Kumari's ICICI Bank Account. During a training session held in Thailand, it came to light that the business was a fraudulent scheme. Thereafter, the invested amount was not returned to the de-facto complainant. Hence, the case.

3.The contention of the learned Senior Counsel for petitioner is that the petitioner has been arrayed as A3 in C.C.No.06 of 2025 and the learned

Special Judge, TNPID Court passed a blanket cognizance order and issued Non-Bailable Warrant mechanically without application of mind, which is in clear violation of law laid down by the Hon'ble Supreme Court in the case of ***Inder Mohan Goswamy and another vs. State of Uttaranchal and others*** reported in ***(2007) 12 SCC 1.*** The petitioner was neither absconding nor evaded any summons issued by the Investigating Officer or Court. However, the trial Court without issuing any prior summons, notice or affording any opportunity to appear, had erroneously proceeded to issue a Non-Bailable Warrant. The respondent had nowhere reported to the learned Special Judge that the petitioner was absconding and not available at any point of investigation. The issuance of Non-Bailable Warrant without issuance of prior summons or notice, is violative of the principles of natural justice and the fundamental right to life and liberty guaranteed under Article 21 of the Constitution of India. This principle has been followed consistently in the case of ***Vikas vs. State of Rajasthan*** reported in ***(2014) 3 SCC 321*** and in the case of ***M/s.Jeevan Emu Care India Private Limited vs. The State of Tamil Nadu*** in ***Crl.R.C.(MD) No.186 of 2015***.

4.The learned Senior Counsel further submitted that initially a case was registered by District Crime Branch, Kancheepuram in Crime No.53 of 2018 on 21.09.2018 on the complaint of one Rameshwari against one Puja Kumari for offence under Section 420 of I.P.C. Thereafter, on the orders of the Director General of Police, the said case was transferred to the Economic Offences Wing, Kancheepuram and re-numbered as Crime No.02 of 2019 on 02.05.2019. In this case also the petitioner not shown as accused. Even during investigation, the petitioner was neither summoned nor notice issued but the petitioner arrayed as A3 in the final report filed before the Special Court under TNPID Act along with 21 others.

5.The learned Senior Counsel further submitted that the petitioner is the Director of M/s.Vihaan Direct Selling (India) Private Limited and the case projected is that this company collected deposits by nominating 190 Independent Representatives (IRs) by colluding with M/s.Universal Technologies, which collected around Rs.9 crores and later the amounts withdrawn by A1-company and thus during the period between 2016 and 2024, A1, A4 and the petitioner/A3 committed the offence. In the final report, the respondent comes to a finding that the total amount wrongfully gained by A1 to A22 is Rs.5,63,63,286/- and further records that the State Bank Accounts in Kacharakanahalli Branch, Bangalore bearing Account No.35138338433 and Horamavu Branch, Bangalore bearing Account No.34999322441 blocked and the total amount lying in these accounts is Rs.5,30,48,226/-. He further submitted that in the charge sheet except for a sweeping allegation, there is no specific role attributed to the petitioner. It is the business of A1-company, which sells goods by way of direct selling model. The Ministry of Consumer Affairs formulated Direct Selling Rules in order to regulate the industry. The petitioner company is a product based direct selling company using e-commerce platform registered under the Company's Act, 1956. The company is conducting its business under the brand name "Q-Net", which is a global brand that exists in over 150 countries. The petitioner is sub-franchisee of M/s.Quest Strageties Limited in India. The petitioner company sells products through the word of mouth and referral marketing model. If the customer chooses to register as an IR, he can do so and it is not a compulsion. Further, on receipt of the product, if the customer is not satisfied with the product, then he is entitled to return the product to the petitioner's company with a request to exchange within seven days from receipt of the product. The customer is also entitled for refund of money within thirty days from the receipt of product. The petitioner company has been recognised by the Union of India as well as various State Governments.

6.He further submitted that the Hon'ble High Court of Karnataka at Bangaluru earlier examined the entire business framework of the company in *Criminal Petition No.9308 of 2016* in the case of *Naresh Balasubramaniam vs. State of Karnataka and another*, wherein identical allegations against Q-Net/Vihaan were dealt with. Having examined all the aspects of the direct selling business and the business of the company, the Hon'ble High Court by its order dated 15.02.2017, observed that direct selling and multi-level marketing has emerged as an independent industry and are forms of economic activity. Further, it held that such business model is not illegal and also held that it does not constitute offences under Prize, Chits, Money Circulation Scheme (Banning) Act, 1978. It had further held that if the ingredients of the offences under Sections 417, 419 and 420 are made out, the respondent police can proceed against the offender. Further, if there is any deficiency of service in the scheme, then the customer can invoke Consumer Protection Act. Further, there were series of cases, wherein the Hon'ble Apex Court has granted protection from criminal action against the company for its business activities. The Hon'ble Apex Court in ***W.P.No.31 of 2017*** in ***Vihaan Direct Selling India Pvt. Ltd. and others vs. Union of India***, granted protection order not to take any coercive action against the petitioners therein. Thus, had the respondent issued notice to the petitioner, the petitioner would have given reason and justification and the possibility of filing charge sheet against the petitioner might not arise. Further referring to the cognizance order dated 07.03.2025, the learned Senior Counsel submitted that the cognizance order merely says that records perused, issue summons to A8, A9 and A15. Remaining accused are absconding, issue NBW including the petitioner, which is in clear violation of the directions issued by the Hon'ble Apex Court in the case of *Inder Mohan Goswamy.* Hence, prayed for granting anticipatory bail to the petitioner.

7.The learned Government Advocate (Crl. Side) strongly opposed the petitioner's contention submitting that initially on the complaint of one Rameshwari, the District Crime Branch, Kancheepuram registered a case in Crime No.53 of 2018 for offence under Section 420 of I.P.C. Thereafter on receipt of similar complaints from various depositors, the Director General of Police directed transfer of investigation to Economic Offences Wing vide proceedings in R.C.No.1099/166623/Crime 1 (1)/2018 dated 27.02.2019. Thereafter the case was re-registered in Crime No.02 of 2019 by the respondent on 02.05.2019 for offences under Sections 420, 406, 120(b), 506(i) of IPC r/w Section 5 of the TNPID Act, 1997. On conclusion of investigation, charge sheet filed before the Special Court under TNPID Act against the petitioner and 21 others for offences under Sections 420, 409, 109 and 120(b) of IPC r/w Section 5 of the TNPID Act, 1997 and Section 21(1)(2)(3) and 23 of the BUDS Act and cognizance taken in C.C.No.6 of 2025. The trial Court finding that the petitioner evading notice, got absconded, not available in the address given issued NBW. The petitioner can very well approach the Special Court under TNPID Act, Chennai, file a recall petition and get the NBW recalled.

8.The learned Government Advocate further submitted that already a detailed investigation conducted examining witnesses, collecting documents, listing LW1 to LW233 and charge sheet filed before the trial Court. The trial Court on perusal of the same, took cognizance of the case. Hence, he is not referring to the contention made by the petitioner on the merits of the case. The primary contention of the learned Senior Counsel is that without summon or notice, NBW issued. Since, charge sheet already filed, the petitioner shall appear before the trial Court and co-operate with the trial, if required, appear before the investigating officer.

9.Considering the submissions made and on perusal of the materials, it is seen that the petitioner is arrayed as A3 in the charge sheet. The trial Court on perusal of the charge sheet and materials had taken cognizance in C.C.No.06 of 2025 and thereafter issued Non-Bailable Warrant. Admittedly, the petitioner is not a named accused, when the case was initially filed and investigated by District Crime Branch, Kancheepuram in Crime No.53 of 2018. The case was thereafter transferred to Economic offences Wing. At the stage of filing of charge sheet, the petitioner was arrayed as A3 in the above case. There is nothing to show that earlier there was notice or summon issued to the petitioner and the petitioner evaded summons. In view of the same, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

10.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Judge, Special Court for TNPID Act Cases, Chennai on condition that 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 respondent Police or the Police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

> [a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;
>
> [b]The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019'].

The learned Magistrate shall obtain a copy of any one of the identify proofs to ensure their identity;

[c] **the petitioner shall appear before the trial Court on all hearing dates without fail;**

[d] the petitioner shall not directly or indirectly cause any threat to the de-facto complainant and witnesses and shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall make himself available for interrogation by a Police officer as and when required;

[f] the petitioner to give an undertaking that if required for being identified by witnesses during investigation or for Police custody beyond the first fifteen days, he shall comply to the directions as may be given by the Court in this regard;

[g] the petitioner shall not abscond either during investigation or trial;

[h] On breach of any of the aforesaid conditions, the learned 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];

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.

29.07.2025

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To

1.The Special Judge,
Special Court for TNPID Act Cases,
Chennai.

2.The Deputy Superintendent of Police,
Economic Offences Wing,
Kancheepuram, Kancheepuram District.

3.The Public Prosecutor,
Madras High Court.

M.NIRMAL KUMAR, J.

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