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Crl.RC No.2284 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.12.2024

PRONOUNCED ON : 03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2284 of 2024

P.V.Deepak Govind Prasad ... Petitioner/A17

Vs.

The State rep. by
The Additional Superintendent of Police,
Economic Offence Wing-II,
Headquarters,
Ashok Nagar, Chennai.
(Crime No.7 of 2022) ... Respondent/Complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C., to call for the records in Crl.M.P.No.2828 of 2024 on the file of the learned Special Judge, Special Court under TNPID Act, Chennai – 600 104 and set aside the order dated 03.12.2024 in CC No.9 of 2023 on the file learned Special Judge, Special Court under TNPID Act, Chennai against Cr.No.7 of 2022 on the file of the respondent police.

For Petitioner : Mr.G.Ravikumar

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



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ORDER

The Criminal Revision Case challenges the order dated 03.12.2024

dismissing the petition filed under Section 167(2) CrI.P.C.

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2. The respondent had filed the final report in CC No.9 of 2023 against the petitioner and a few other accused for alleged offences under sections 120(B), 420, 406 of the IPC and Sections 3 and 5 of The Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act) and Section 58(B)(1) of the RBI Act.

3. The allegations against the petitioner broadly are that the petitioner was one of the Directors of two companies by the names 'Aarudhra Garments Private Limited' and 'Aarudhra Events and Entertainments Private Limited'; that the petitioner was involved in the collection of huge sums in cash from the Branch Directors of the 1st accused company in the month of May 2022; that those unregulated deposits collected from the public were retained by him in cash in connivance of A9-Rajasekar Veeraraghavan; and that investigation revealed that the petitioner had misappropriated the money collected as deposits and diverted the money to purchase cars and valuable items besides retaining huge amount as cash.



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4. The petitioner was shown as absconding in the final report and after the filing of the final report, the petitioner was arrested on 08.07.2023 and the respondent sought for remand stating that further investigation is required to discover how and where the petitioner had concealed and diverted the money earned by committing the offences and also sought for police custody.

5. The petitioner filed an application in Crl.M.P.No.2828 of 2024 seeking statutory bail on the ground that though he was arrested on 08.07.2023, the further report has not been filed by the respondent as on date and hence, he is entitled to statutory bail. This was opposed by the State and on 03.12.2024, the learned Special Judge dismissed the said petition on the ground that the petitioner is not entitled to statutory bail.

6. The learned counsel for the petitioner would submit that the respondent had filed an incomplete report and hence, after his arrest they sought for judicial remand and police custody stating that further custody is required for recovery of money concealed by the petitioner and to find out the money diversion and to prevent him from tampering with the



witnesses; and that this would show that the investigation is pending and

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the final report filed is an incomplete one and therefore, the petitioner is entitled to statutory bail.

7.(i) The learned Additional Public Prosecutor, *per contra* submitted that the legal issue involved in this case is settled in ***Central Bureau of Investigation v Kapil Wadhawan and Another***, reported in **(2024) 3 SCC 734**, wherein the Hon'ble Supreme Court had held that where a final report is filed and further investigation is pending, the accused is not entitled to statutory bail.

(ii). The learned Additional Public Prosecutor also submitted that only after the investigation, the petitioner was arrayed as an accused and in the final report, the role played by the petitioner was clearly stated and therefore, what is sought to be conducted is only a further investigation and that will not give a right to the petitioner for statutory bail.

8. The learned counsel for the petitioner in response would submit that the judgment of the Hon'ble Supreme Court would be applicable



only if the respondent is able to show that the investigation is in respect of other accused, whereas, in this case, the investigation is in respect of this accused.

9. Considered the submissions made by the learned counsel on either side.

10. Admittedly, the bail petition filed by the petitioner was dismissed on merits by this Court by the order dated 18.11.2024 in Crl.OP No.24490 of 2024. The relevant observations read as follows:

“8. 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 Economic 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 Directors of the accused company. Therefore, the said case laws are squarely applicable to the present facts of the case.”

11. Thereafter, the petitioner sought for statutory bail before the



learned Special Judge mainly on the ground that the final report filed against him is incomplete and since, further investigation is being conducted in respect of his role and the further report is yet to be filed, he is entitled to statutory bail. The trial Court by the impugned order had observed that since final report is filed, the right to obtain statutory bail is extinguished and that merely because further investigation is pending, the statutory bail cannot be granted by citing the judgment of the Hon'ble Supreme Court ***Kapil Wadhawan's case*** [cited supra].

12. As stated earlier, the primary contention of the learned counsel for the petitioner is that an incomplete final report was filed and since, the further investigation is pending to probe the role of the accused, the judgment of the Hon'ble Supreme Court referred above would not be applicable to the facts of the case. The learned counsel further submitted that the learned Special Judge had erroneously taken cognizance of the offence on the basis of an incomplete final report. It is seen that the order taking cognizance has not been challenged by the petitioner. Be that as it may. The petitioner was shown as an accused in the final report filed by the respondent under Section 173(2) of the Cr.P.C., although he was not named in the FIR. The prosecution had collected the evidence as regards



the role and the involvement of the petitioner in the alleged offences.

Upon his arrest, the prosecution sought for extension of remand and also for police custody on the following grounds:

- “(i) Further investigation is required for the recovery of money concealed by him.
- (ii) To find out the money diversion through his associates and friends
- (iii) To prevent him from tampering of the witnesses and destruction of evidences.”

13. From the above, it would be clear that what is sought to be investigated is not the role of the petitioner in the alleged offences, but as to where he had concealed the proceeds of crime and diverted the same. The object of fixing a statutory limit of detention if the investigation is not completed is to ensure that the accused is not kept in detention for an unlimited period while the investigation on the involvement and the role played by him is pending. In the instant case, the final report discloses the involvement of the petitioner in the alleged offences. What is sought to be probed in the further investigation is to find out where the petitioner had diverted the money and concealed it.

14. That apart on 23.01.2024, the prosecution had sought for further investigation in respect of the other absconding accused as well



and to collect the evidence in respect of 85045 depositors. The said further investigation is still pending. The Hon'ble Supreme Court in ***Kapil Wadhawan's case*** [cited supra], had considered a very similar issue and at paragraph Nos.13 and 25, held as follows:

“13. In the instant appeal, the main question that falls for our consideration is, whether the respondents were entitled to the benefit of the statutory right conferred under the proviso to sub [section 2](#) of [Section 167](#) Cr.P.C, on the ground that the investigation qua some of the accused named in the FIR was pending, though the report under sub-section (2) of Section 173 (Chargesheet) against respondents along with the other accused was filed within the prescribed time limit and though the cognizance of the offence was taken by the special court before the consideration of the application of the respondents seeking default bail under [Section 167 \(2\)](#) Cr.P.C.?”

25. In view of the afore-stated legal position, we have no hesitation in holding that the chargesheet having been filed against the respondents-accused within the prescribed time limit and the cognizance having been taken by the Special Court of the offences allegedly committed by them, the respondents could not have claimed the statutory right of default bail under Section 167(2) on the ground that the investigation qua other accused was pending. Both, the Special Court as well as the High Court having committed serious error of law in disregarding the legal position enunciated and settled by this Court, the impugned orders deserve to be set aside and are accordingly set aside.”

15. The instant case is one where the role of the petitioner and his involvement were already determined by the respondent and the learned Special Judge had taken cognizance of the offences committed by the petitioner. It was only thereafter, the petitioner was arrested. The



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remand and police custody of the petitioner was sought for the reasons stated above. Therefore, it cannot be said that the investigation was pending qua the petitioner, as regards his involvement in the crime. What was sought to be done by the investigating officer was further investigation to identify the proceeds of crime. Therefore, this Court is of the view that the petitioner would not be entitled to a statutory bail. That apart the investigation is pending qua other accused. In such circumstances, as held by the Hon'ble Supreme Court, the accused would not be entitled to statutory bail. Hence, this Court is not inclined to entertain this revision. However, the petitioner is at liberty to seek bail on merits, if there is any change in circumstances.

16. Accordingly, the order dated 03.12.2024 made in Crl.M.P.No.2828 of 2024 in CC No.9 of 2023 on the file of the learned Special Judge, Special Court under TNPID Act, Chennai – 600 104 is confirmed and the Criminal Revision Case stands dismissed.

03.01.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.



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SUNDER MOHAN, J.

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To

1. The Special Judge,
Special Court under TNPID Act,
Chennai – 600 104.

2. The Additional Superintendent of Police,
Economic Offence Wing-II,
Headquarters,
Ashok Nagar, Chennai.

3. The Public Prosecutor,
High Court, Chennai.

Pre-delivery order in
Crl.R.C.No.2284 of 2024

03.01.2025