



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Tenth day of March Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.21112 of 2014

WEB COPY

1 PALANICHAMY
2 P.KAMALESHWARI
3 P.MANIKANDAN
4 P.KARTHISWARI
5 MANIMALA
6 SENTHILKUMAR
7 MAHESHWARI

... PETITIONERS/ACCUSED NOT KNOWN
Vs

STATE REP BY THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, MADURAI,
CR.NO.85 OF 2012 ... RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.KANNAN Advocate
For Respondent : MR.A.P.BALASUBRAMANI Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

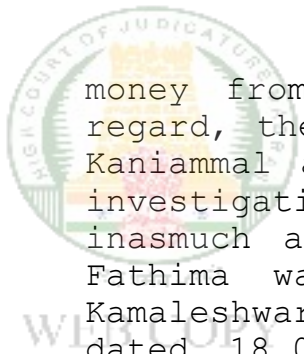
ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(B), 406, 420 and 506(i) IPC in Crime No.85 of 2012 on the file of the respondent police, seek anticipatory bail.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the State.

3. Initially, this petition was filed showing the crime number as "Not Known of 2014". Therefore, this Court granted interim anticipatory bail to these petitioners on 03.02.2015 with a direction to appear before the respondent police and cooperate with the investigation. The respondent police, after conducting thorough investigation, have filed two status reports dated 18.11.2014 and 18.02.2015. According to the respondent police, they have not registered any fresh case, but the allegations against these petitioners relate to a case, which is already pending on their file in Crime No.85 of 2012. The said Crime Number was registered by the respondent police pursuant to a complaint given by one Rabika Banu against four persons, namely, (1) Syed Ali Fathima, (2) Kaniammal (Daughter of A1), (3) Dhana sundari alias Dhanalakshmi and (4) Gunasundari alias Sakunthala (5) Durga and (6) Sridhar.

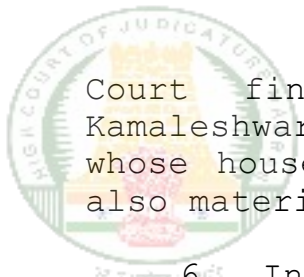
4. The crux of the allegations in Crime No.85 of 2012 is that the accused therein had started a Self Help Group and had taken



money from the de-facto complainant and cheated her. In this regard, the police arrested Syed Ali Fathima (A1) and her daughter Kaniammal and investigation is in progress. During the course of investigation, several incriminating materials came to light, inasmuch as, it came to the notice of the police that Syed Ali Fathima was not actually the king pin and the king pin is Kamaleshwari (2nd petitioner) in this petition. In the status report, dated 18.02.2015 in paragraph No.5, the police has stated as follows:

"5.It is respectfully submitted that investigation was continued and it was found that the confession given by the accused was tainted with falsehood. In-fact one Vijayalakshmi has preferred a complaint by contending that the petitioners herein preferred a complaint by contending that the petitioners herein have also actively participated in the cheating perpetrated by the above said accused and in-fact the 2nd petitioner herein was the king-pin in cohort with the accused in the massive cheating to deprive the people hailing from below the poverty line in their locality of their hard earned money, proposal is afoot to array them as accused. The accused have also retraced her confession and gave a statement indicting the involvement of the petitioners herein. In this connection a requisition was submitted to the learned jurisdictional Magistrate to record her statement under Section 164 Cr.P.C. Accordingly her statement was recorded by the learned Judicial Magistrate, No.II, Madurai on 16.02.2015 and further investigation shall be taken up on the basis of the said statement. In the meanwhile, the said Vijayalakshmi has also filed a petition in CrI.O.P.(MD) No.14993 of 2014 and this Hon'ble Court by an order dated 18.09.2014 directed this respondent to examine her as witness and record her statement in the First Information Report registered in Crime No.85 of 2012. The investigation has revealed that the 2nd petitioner has mislead the accused No.1 that she will get loan from ICICI bank and that Manikandan, the 3rd petitioner herein has prepared the member card and that were involved in the collection of loan. The mobile phones used by them have been collected and sent to the service providers for getting call details through the Superintendent of Police, Madurai District."

5. The police had also taken steps to record the 164 Cr.P.C. statement of Syed Ali Fathima. A copy of the 164 Cr.P.C. recorded by the learned Judicial Magistrate, No.II, Madurai, on 19.02.2015 of Syed Ali Fathima was produced before this Court. On reading of the 164 Cr.P.C. statement of Syed Ali Fathima, it appears that Kamaleshwari and her brother Senthilkumar had abducted Syed Ali Fathima and had made her to surrender before the police and given a false confession to the police as if it was Syed Ali Fathima, who had cheated the defacto complainant. Thus, the case has taken a very peculiar turn. On the materials produced before this Court, this



Court finds that there are overwhelming materials against Kamaleshwari, Senthilkumar, Maheshwari and sister of Kamaleshwari, in whose house, the abducted people were kept as hostages. There are also materials against father of Kamaleshwari.

6. In view of the serious nature of allegations against Kamaleshwari, Senthilkumar and Maheshwari, the Criminal Original Petition stands dismissed against them.

7. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to **Palanichamy / 1st petitioner, Manikandan / 3rd petitioner, Karthiswari / 4th petitioner and Manimala / 5th petitioner.** Accordingly, the petitioner nos.1, 3 to 5 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Madurai, on condition that each of the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioners 1 and 3 shall report before the respondent police daily at 10:30 a.m. for a period of two weeks and thereafter as and when required and the petitioners 4 and 5, being ladies, shall report before the respondent police as and when required for interrogation.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

8. For the sake of brevity, it is reiterated that this petition shall stand dismissed in respect of the petitioners 2, 6 and 7.

sd/-
10/03/2015

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE JUDICIAL MAGISTRATE NO.I, MADURAI

2 THE CHIEF JUDICIAL MAGISTRATE, MADURAI

3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, MADURAI,

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP (MD) No.21112 of 2014

Date :10/03/2015

AA/13.03.2015/4p- 5c/