



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

Wednesday, the Eleventh day of March Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.23782 of 2014

WEB COPY

M.SANTHANAM

... PETITIONER/ACCUSED
RANK NOT KNOWN

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
CCB POLICE STATION
THENI, THENI DISTRICT.
(IN CR.NO.NOT KNOWN/2014)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.P.MANO HARAN Advocate

For Respondent : Mr.A.P.BALASUBRAMANI,
Govt. Advocate (Crl. Side)

M/S.AJMAL ASSOCIATES FOR ANNAMALAI UNIVERSITY

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

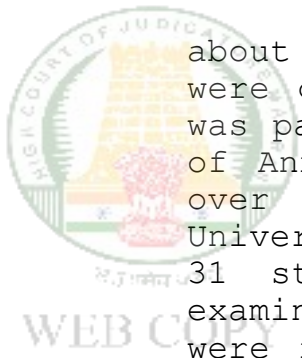
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 and 420 of IPC in Crime No.13 of 2015 on the file of the respondent police, seeks anticipatory bail.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the respondent.

3. On 25.02.2015, this Court has passed a detailed order which is as follows:-

" The de-facto complainant is one Karuppusamy. The petitioner herein opened "Annamalai University Distant Education Centre" on 26.01.2013 near Sundaram Theater in Palanichettipatti, Theni and advertised that he has been authorised to receive applications from students for pursuing distant education courses offered by Annamalai University. The petitioner herein appointed the de-facto complainant as an agent to canvass amongst students for making them to join the distant education courses offered by the Annamalai University through the petitioner's Centre. Pursuant to the efforts taken by the de-facto complainant,



about 31 students were enrolled into various courses that were offered by the Annamalai University. Examination fees was paid by the students by drawing demand drafts in favour of Annamalai University and the Demand Drafts were handed over to the petitioner for being submitted to Annamalai University. It is claimed by the de-facto complainant that 31 students who were brought by him had cleared the examinations, but the Transfer Certificates and Mark Lists were not being given by the petitioner herein. Therefore, the students started demanding for the certificates from the de-facto complainant and hence, the de-facto complainant had no other option but to lodge the present complaint before the respondent police. This Court granted interim anticipatory bail to this petitioner with a direction to the petitioner to appear before the respondent police and to co-operate with the investigation for a period of two weeks. On 24.02.2015, Jasmine Mumtaj, the Inspector of Police, District Crime Branch, Theni filed a status report, in which she has fairly stated that during the course of investigation, the petitioner did appear before her and together with the petitioner she went in search of one Chandrahasan to whom the petitioner had allegedly handed over the Demand Drafts for being remitted to the Annamalai University.

2. The learned counsel for the petitioner states that he has lodged a complaint before Austinpatti Police Station against Chandrahasan and one Stalin. Based on which, a case in Crime No.180 of 2014 has been registered by the said police. In the status report filed by the Inspector of Police in this case, she has also referred to this aspect and has stated that in the complaint lodged by this petitioner in Austinpatti Police Station in Crime No.180 of 2014, the names of the 31 students, who are the victims in this case and who hail from Theni District have also been included in the list of 299 names of students, who are similarly placed. In paragraph Nos.12 and 13 of the status report, the Inspector of Police has stated as follows:

"12. It is respectfully submitted that from the final opinion of learned G.P. of Theni District that "Since already FIR was registered in Austinpatti Police Station, in Madurai District and the investigation is pending, if another FIR is registered against this same persons in relating to the same offence and investigation is proceeded, contradictions and conflicts will also arise. Moreover, if FIR is registered in two police station for the same offence, it is totally illegal. Since, already FIR is registered, I am of the opinion that registration for new FIR is not required.

13. It is respectfully submitted that on the basis of the opinion of the learned Government Pleader, I am closing the above said complaint which is given by complainant Karuppasamy. "

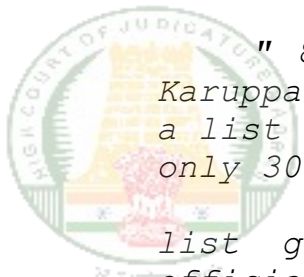


3. This Court is indeed surprised at the opinion that has been offered by the Government Pleader suggesting to the police to close the present case and to tag it along with Crime No.180 of 2014 for the aforesaid reasons.

4. Mr.G.Thalaimutharasu, learned counsel appearing for the de-facto complainant produced photographs showing that the petitioner had opened the Distant Education Centre in Theni District which falls within the jurisdiction of the present respondent herein and pursuant to that, he was appointed by the petitioner to canvass amongst students and make them to join the distant education courses offered by the Annamalai University. The petitioner is not doing a charity job. He is also collecting some money from the students for the services rendered by him. The petitioner stands to gain in this venture. The money collected from the students has to be paid in time to the Annamalai University and it is also his duty to obtain the certificates from the University and hand them over to the students. Therefore, if the 31 students have been cheated, they cannot go anywhere else to lodge a complaint and they have to necessarily go only to the local police station viz., the respondent herein. As far as Crime No.180 of 2014 is concerned, this petitioner has lodged a complaint against Chandrahasan and Stalin. That cannot be used as a shield by the petitioner to get over of his criminal liability vis-a-vis the 31 students of Theni District, who have joined the distant education courses through him. Therefore, the opinion of the Government Pleader is to be rejected and I direct the respondent police to continue with the investigation and register a regular F.I.R. based on the complaint given by the de-facto complainant in respect of 31 students of Theni District, who have been the victims in this case. Interim anticipatory bail already granted is extended for a period of two weeks and a direction to the petitioner is issued to co-operate with the Investigating Officer. The Investigating Officer is also directed to go to Annamalai University and ascertain from the authorities concerned as to how much money should be paid in order to solve the problems faced by the 31 students of Theni District.

5. Post the matter on 11.03.2014."

4. Today, Ms. Jasmine Mumtaj, Investigating Officer is present and has filed a status report, dated 11.03.2015, in which she has stated that pursuant to the direction issued by this Court a case in Crime No.13 of 2015 for the offences under Sections 406, 420 and 506 (ii) of IPC has been registered on 25.02.2015 against one Chandrahasan (A1) and Santhanam (A2) / petitioner herein. In the status report filed by the Inspector of Police, she has stated in Para Nos.8 to 12 as follows:-



" 8. It is respectfully submitted that the informant one Karuppasamy who is the de facto complainant in this case, gave a list of non issuing transfer certificate and mark sheets for only 30 students.

9. It is respectfully submitted that as per the name list given by the above said de facto complainant the officials of Annamalai University gave to me 21 students of pre-foundation Programme Course Certificates, including 15 students of mark statements are given to me and remaining 7 students of mark statements, that the controller of Annamalai University gave a undertaking letter to me on 15.03.2015 regarding their mark sheets, stating that "The mark sheet and certificate of certain students who have appeared for distance Education Examination of our University during may 2013 are handed over to you. As many of the candidates have written the same application number in their answer sheets the answer sheets of the following seven candidates are not identifiable. Hence, they may be directed to meet the undersigned in person for handwriting matching on any one of the working day. On verification the mark sheets will be prepared and dispatched to the candidates.

10. It is respectfully submitted that remaining 1 student namely one R. Sabitha, who is doing B.A., degree Course and she will be appeared for her main examination during the month of May 2015 and thereafter, she will get her mark statements and transfer certificate.

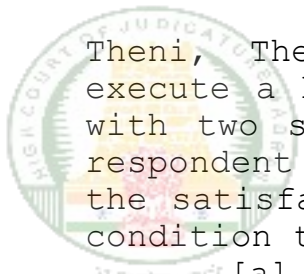
11. It is respectfully submitted that now the investigation is going on. Now, I am keeping 21 students of Pre-foundation programme Course Certificates, mark statements and Programme course certificates of 7 students.

12. It is respectfully submitted that after getting order of this Hon'ble Court I am ready to handover the above said original records as per the directions."

5. From the above, it is seen that the Inspector of Police has taken effective steps to secure the mark sheets of 21 students and as regards 7 students, the University Authorities have asked for some more time.

6. This Court directs the Investigating Officer to hand over the certificates to the 21 students on proper identification. As regards other 7 students are concerned, they are directed to appear before the University Authorities, for the purpose of identifying their signatures and hand writing.

7. Under such circumstances, I am inclined to grant anticipatory bail to the petitioner. 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 Judicial Magistrate,



Theni, Theni District, on condition that 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 petitioner shall report before the respondent police daily at 6.30 p.m for a further period of two (2) weeks.

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

[c] the petitioner 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 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]**.

8. As per the directions of this Court, the Investigating Officer has taken effective steps in a commendable manner. This Court places on record its appreciation of Ms. Jasmine Mumtaj, Inspector of Police, District Crime Branch, Theni District for the fair manner in which she has conducted the enquiry and filed a comprehensive status report in this regard. Registry is directed to mark a copy of this order to the Superintendent of Police, Theni, for placing the same in the Service Register of the Investigating Officer.

sd/-

11/03/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE, THENI, THENI DISTRICT
- 2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE THENI DISTRICT
- 3 THE INSPECTOR OF POLICE, CCB POLICE STATION
THENI, THENI DISTRICT.
- 4 THE ADDL. PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH
COURT, MADURAI.

+2. CC to M/S.P.MANOCHARAN Advocate SR.No.11930 & 11659

ORDER

IN

CRL OP(MD) No.23782 of 2014

Date :11/03/2015

NA/13/03/2015/P5/7C