



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Sixth day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.2844 of 2015

1 A.BATCHA BAI
2 ABUBHAKAR
3 KIYASUDEEN
4 BAHURDEEN

..PETITIONERS/ACCUSED 1,3,4 & 5

Vs.

STATE REP.BY THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THANJAVUR.
CRIME NO.11/2014

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.VEERA KATHIRAVAN for
M/s.JACOB & JACOB ASSOCIATES Advocate

For Respondent : Mr.A.P.BALASUBRAMANI, Government Advocate (Crl.Side)
For Intervenor : Mr.R.JOHN SATHIYAN, Advocate

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

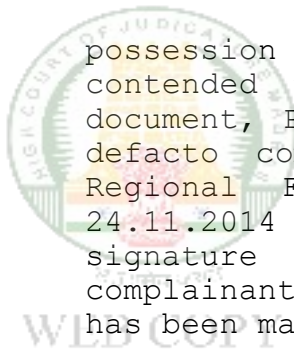
ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 506(ii) IPC in Crime No.11 of 2014 on the file of the respondent police, seek anticipatory bail.

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

3. The case of the defacto complainant is that he owns a property in Adhiramapatinam Village in which he wanted to start a Prawn Hatchery Farm. Since he did not know much about the business, he engaged the services of his relative Batcha Bai (A1) for the purpose of establishing the Farm. It is stated by the defacto complainant that he has invested Rs.20,00,000/- in the business and left it to be managed by Batcha Bai (A1), Jagubar Sadique (A2), Abubhakar (A3), Kiyasudeen (A4) and Bahurdeen (A5). It is alleged by the defacto complainant that these accused did not give any account to him and with the money invested by the defacto complainant, they ran the business and earned huge profits to the tune of Crores of Rupees by selling prawns to M/s.Diamond Sea Foods. When the defacto complainant came to know about this, he approached the accused and they started threatening him.

4. Learned counsel for the petitioners submitted that the defacto complainant had entered into a lease agreement with Jagubar Sadique (A2) on 22.07.2013 and had handed over the entire business to him for a period of five years after receiving some amount. Based on the lease agreement, Jagubar Sadique (A2) has filed O.S.No.73 of 2014 against the defacto complainant before the District Munsif, Pattukkottai for injunction, restraining the defacto complainant from interfering with the peaceful



possession and enjoyment of the property. Since the defacto complainant contended that the lease agreement dated 22.07.2013 is a fabricated document, Police sent the same along with the specimen signature of the defacto complainant to the Tamil Nadu Forensic Sciences Department, Regional Forensic Science Laboratory, Madurai and a report dated 24.11.2014 has been received from them in which it is stated that the signature in the lease agreement and the signature of the defacto complainant does not tally. Thus, a clear case of fabrication of records has been made out against the accused.

5. Learned counsel for the petitioners submitted that main accusation is only against Jagubar Sadique and not against these petitioners.

6. On the contrary, it is seen from the complaint lodged by the defacto complainant that the entire business venture was entrusted to Batcha Bai (A1) and Jagubar Sadique (A2) and therefore, it cannot be said that Batcha Bai is innocent.

7. Learned Government Advocate (Crl.Side) represented that Police have arrested Abubhakar (A3) and Bahurdeen (A5) and remanded them to custody. In the confession of the arrested accused, the involvement of Batcha Bai (A1) has been narrated.

8. Under such circumstances, this Court is not inclined to grant anticipatory bail to Batcha Bai (A1) / 1st petitioner herein. As the 2nd and 4th petitioners were already arrested by Police, **this Criminal Original Petition in respect of 1st, 2nd and 4th petitioners stands dismissed.**

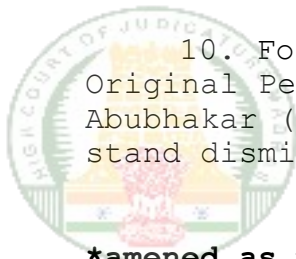
9. As regards Kiyasudeen (A4) / 3rd petitioner herein is concerned, he was only an employee working under Batcha Bai (A1) and Jagubar Sadique (A2) and the allegations against him are not very serious. **Under such circumstances, this Court is inclined to grant anticipatory bail to the 3rd petitioner alone. Accordingly, Kiyasudeen / 3rd petitioner herein 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, Pattukottai**, 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] Kiyasudeen / 3rd petitioner shall report before the respondent police daily at 10:30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[b] Kiyasudeen / 3rd petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] Kiyasudeen / 3rd 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].



10. For the sake of brevity, it is reiterated that this Criminal Original Petition in respect of Batcha Bai (A1) / 1st petitioner, Abubhakar (A3) / 2nd petitioner and Bahurdeen (A5) / 4th petitioner shall stand dismissed.

sd/-
06/03/2015

***amened as per order dated 01.04.2015
in MP(MD)No.2 of 2015
in CRLOP(MD)No. 2844 of 2015 by PNPJ.**

*** Two weeks time is granted for
submitting sureties from the date
of receipt of amended copy of the order
and the rest of the conditions shall remain same.**

sd/-
01/04/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

***To be substituted the order already despatched**

1 THE JUDICIAL MAGISTRATE NO.I, THANJAVUR.

***2 1 THE JUDICIAL MAGISTRATE PATTUKOTTAI**

3 -do-thro'THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR AT KUMBAKONAM.

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

5 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, THANJAVUR.

+1. CC to M/S. JACOB & JACOB ASSOCIATES Advocate SR.No. 16999

+1CC to M/s.R.Johnsathyan, Advocate in SR.11260

ORDER IN
CRL OP(MD) No.2844 of 2015
Date :06/03/2015

PBK 10/03/2015 ::3P-7C:

TS/07.04.2015/3P-8C