



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

Monday, the Thirtieth day of March Two Thousand Fifteen

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PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP (MD) No.3376 of 2015

1 SAKTHIVEL @ SASI
2 PANEER SELVAM
3 NAGARAJ
4 PARAMASIVAM
5 KANNAN
6 MANI @ SONAI MUTHU
7 POTHU RAJA

... PETITIONERS / ACCUSED
Nos.2,4,7 to 11

N.NAGARAJAN

... INTERVENER / DE-FACTO
COMPLAINANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
KODAIKANAL POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO.NO.507/2014

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.R.SURIYANARAYANAN, Advocate

For Respondent : M/S.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl.Side)

For Intervener : M/S. N.ANANDAKUMAR, Advocate

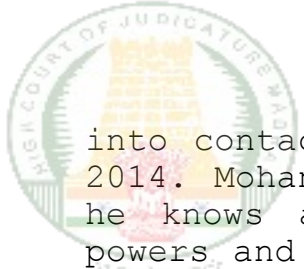
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

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 120(b) and 420 IPC in Crime No.507 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 de-facto complainant in this case is one Nagarajan. According to Nagarajan, he is a Car Broker and that he along with four of his friends, who are also into such similar business, came

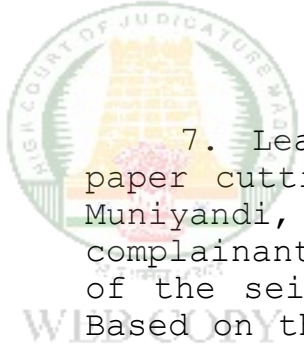


into contact with one Mohan Doss (A1) sometime in the year August, 2014. Mohan Doss became very friendly with them and told them that he knows an Adivasi, who has Gopura Kalasam, which has magical powers and that he would give it to the defacto complainant and his friends, if they give Rs.72,00,000/-. The defacto complainant and his friends, who are wanting to become rich without hard work, were attracted by Mohan Doss's representation. There were several meetings between them in Kodaikanal and other places.

4. According to the defacto complainant, on 18.09.2014 at a pre determined place, Mohan Doss and the petitioners herein met the defacto complainant and collected Rs.50,00,000/- and the balance amount of Rs.22,00,000/- was agreed to be paid by the defacto complainant on 24.11.2014. At the instance of Mohan Doss, the defacto complainant was asked to wait with his friends around 5:00 p.m. near Saverikadu, which is in the 9th Hairpin Bend in the road to Kodaikanal. Mohan Doss (A1) and some of the petitioners came in a Scorpio Car and the defacto complainant handed over Rs.22,00,000/- to them. On receipt of the amount, Mohan Doss and his gang said that they will bring the Gopura Kalasam in few minutes from inside the forest and they disappeared. They did not turn up thereafter. Therefore, the defacto complainant lodged a complaint on 25.11.2014 at 5 p.m., based on which the aforesaid case has been registered and three persons by name Muniyandi, Pandi and Solomn Raja were arrested by Police.

5. Learned counsel for the petitioners produced a newspaper cutting of Dinathanthi dated 25.11.2014, in which a news item has appeared with regard to this case, wherein it is stated that Palani Taluk Police stopped a car in the check post and apprehended five occupants of the car, who were found to be in possession of Gopura Kalasam. When they were questioned by the Police, two of them, namely, Nagarajan (defacto complainant) and Hariharan told the Police that they were proceeding towards Karur for collecting Rs.72,00,000/- from their friends for handing over the money to other three persons in the car for purchasing the Gopura Kalasam. But according to the FIR, Mohan Doss (A1) and his gang members collected Rs.22,00,000/- from the defacto complainant and his friends at 5:00p.m. on 24.11.2015, promising to bring the Gopura Kalasam and thereafter, they vanished in thin air. The very complaint itself was lodged before the Police only at 11:00a.m. on 25.11.2014. If that is so, learned counsel for the petitioner contended as to how in the 25.11.2014 morning issue of Dailythanthi, all the details could be published? Therefore, he submitted that the very complaint that was lodged on 25.11.2014 is suspect.

6. Learned Government Advocate (Crl.Side) submits that three persons by name Muniyandi, Pandi and Solomn Raja were arrested by the respondent Police in connection with the complaint given by Nagarajan (defacto complainant) on 25.11.2014 and produced the confession statement of the arrested accused.



7. Learned counsel for the petitioners also produced another paper cutting in which the photos of the arrested accused, namely, Muniyandi, Pandi and Solomn Raja and also that of Nagarajan (defacto complainant) and his friend Hariharan have been published. The photo of the seized Gopura Kalasam also finds place in the news report. Based on this, learned counsel for the petitioners submits that the entire prosecution case has become doubtful and these petitioners have been fixed by the defacto complainant for no fault of theirs.

8. Learned counsel for the defacto complainant strongly opposed to the grant of anticipatory bail to these petitioners on the ground that the main accused in this case Mohan Doss is still absconding and that these petitioners had abetted the offence of cheating by Mohan Doss.

9. This Court called for the confession statement of the arrested accused and carefully perused the same. In the opinion of this Court, though a substantial doubt has been raised by the learned counsel for the petitioners by producing various news reports, at the stage of anticipatory bail, much reliance cannot be placed on them, as news reports are not primary evidence of fact.

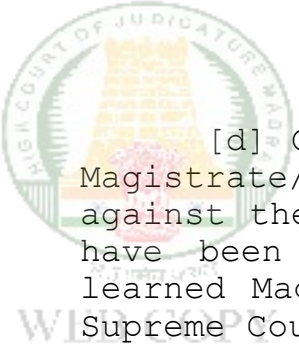
10. On reading of the confession statement, there are serious allegations against Sakthivel @ Sasi, Paneer Selvam and Nagaraj / petitioners 1 to 3, as they had dressed themselves as Adivasis and represented that they are in possession of the Magical Kalasam.

11. On a conspectus of the facts obtaining in this case, this Court is of the view that this is not a fit case to grant anticipatory bail to the petitioners 1 to 3. As regards the petitioners 4 to 7, there are no serious allegations against them and therefore, this Court is inclined to grant them anticipatory bail. Accordingly, the petitioners 4 to 7 alone 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, Kodaikanal, on condition that each of the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) without sureties 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 4 to 7 shall report before the respondent police daily at 06:30 p.m. for a period of four weeks and thereafter, as and when required for interrogation.

[b] the petitioners 4 to 7 shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners 4 to 7 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]**.

13. This petition in respect of the petitioners 1 to 3 stands dismissed.

sd/-
30/03/2015

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

TO

- 1 THE JUDICIAL MAGISTRATE, KODAIKANAL.
 - 2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL.
 - 3 THE INSPECTOR OF POLICE, KODAIKANAL POLICE STATION,
DINDIGUL DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.R.SURIYANARAYANAN, Advocate SR.No.15792.

ORDER IN
CRL OP(MD) No.3376 of 2015
Date :30/03/2015

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