



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

Thursday, the Eighteenth day of August Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.13111 of 2016

1 ANOOP V.K.SHROFF
2 SANTHOSH JAIN

... PETITIONERS / ACCUSED 1&2

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SAMAYANALLUR POLICE STATION
MADURAI DISTRICT.
CRIME NO.40 OF 2014

... RESPONDENT / COMPLAINANT

GHCL LIMITED,
REP by its General Manager- Finance,
N.Kumar

... Intervenor

For Petitioner :MR.V.GOPINATH SENIOR COUNSEL
FOR M/S P.ANDIRAJ Advocate

For Respondent : MR.P.KANNITHEVAN, Govt. Advocate (Crl. Side)

For Intervenor : MR.T.ANTONY ARUL RAJ ADVOCATE

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

ORDER : The Court Made the following order :-

The petitioners who are arrayed as accused, apprehend arrest at the hands of the respondent police for an alleged offence punishable under Sections 468,467,471,120B and 420 of IPC in Crime No.40 of 2014, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the manufacturer of Cotton yarns. The petitioners approached the defacto complainant and introduced themselves as exporter and they



purchased the Cotton yarns from the defacto complainant from March 2012 onwards. For export of Cotton yarns, local sales tax is not applicable, but, the petitioners must produce Form H and proof of export for the benefit of exemption. The petitioners produced only Form H and did not produce proof of export. Subsequently, they produced export certificate. On verification by Sales Tax Authority, it was found that those documents are forged documents. Due to these facts, the defacto complainant was called upon to pay a sum of Rs.23,38,105/- as sales tax. On complaint, a case has been registered against the petitioners.

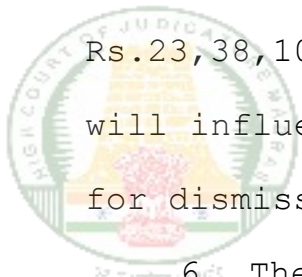
3. Mr. V. Gopinath, learned Senior Counsel appearing for the petitioners submitted that the first petitioner is exporter and doing business to the tune of Rs.4,67,62,100/- every year. The petitioners exported the goods purchased from the defacto complainant and produced documents as proof of export. The Sale Tax Authority failed to consider that, the first petitioner exported all the goods to SEZ with the knowledge of defacto complainant. The officers of Sales Tax Authority due to ignorance of SEZ Act have claimed sales tax. The defacto complainant instead of filing an appeal against the demand by Sales Tax Authority has given a complaint. At no point of time the Sales Tax Department claimed that documents produced by petitioners are forged documents. Bajrangbai Transport and Ramachandra Transport are sister concern. Lorry receipt issued by Bajrangbai Transport was accepted by Bank. On complaint by defacto complainant, the respondent police issued summons to the petitioners in the year 2012 and they appeared before



police made the petitioners to wait till midnight and were forcing petitioners to settle the matter. This Court, by order dated 12.02.2014 in CrI.O.P(MD).No.2710 of 2014 granted anticipatory bail to the petitioners for the offences under Sections 406 of IPC imposing condition and the petitioners complied all the conditions imposed by this Court. Thereafter, CrI.M.P(MD).No.2 of 2014 in CrI.O.P(MD).No.2710 of 2014 filed by the defacto complainant for cancellation of bail was dismissed by this Court.

4. The learned Senior Counsel for the petitioners further submitted that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case. He further submitted that the alleged occurrence took place in the year 2012 and the complaint was given in the year 2014 and all the documents are with the defacto complainant and Sale Tax authority and therefore, custodial interrogation is not required.

5. The learned counsel for the intervenor reiterated the averments made in the complaint and submitted that the petitioners mis-representing the fact had obtained anticipatory bail in the year 2014 alleging the complaint was only for offences under Section 406 of IPC. On the other hand, the respondent police registered case for the offences under Sections 467,468,471,120B and 420 of IPC. The petitioners have forged the Form H and proof of export. They purchased goods from defacto complainant on 12.03.2012, but, they produced as though they exported on 10.03.2012. Subsequently, they corrected the date as 12.03.2012. By producing forged documents,



Rs.23,38,105/-. If anticipatory bail is granted, the petitioners will influence the witnesses and hamper the investigation and prayed for dismissal of this petition.

6. The learned Government Advocate (Crl. Side) submitted that on receipt of a complaint, the enquiry was conducted and the petitioners had obtained anticipatory bail from this Court for the offence under Section 406 of IPC in Crl.O.P(MD).No.2710 of 2014 and subsequently, a case has been registered under Sections 467,468,471,120(B) and 420 of IPC and the investigation is pending.

7. I have considered the rival submissions.

8. It is well settled that grant of bail or anticipatory bail is a rule and denial is exception. The Court must balance liberty of accused persons and fair and proper investigation. Bail or anticipatory bail can be rejected, if Court comes to the conclusion that accused will not co-operate, tamper the evidence and threatened the witness, will abscond and delay in conduct and conclusion of trial. The discretionary power should be exercised judicially, taking in to consideration of each case and well settled principle for granting or rejecting bail or anticipatory bail. In the present case transaction had taken place in the year 2012. According to the defacto complainant, the petitioners did not export the goods purchased by them and produced the forged documents as though the goods were exported. In view of the forged documents cheated the defacto complainant to the extent of Rs.23,38,105/-.

9. Considering the fact that the transaction took place in the year 2012 and the petitioners appeared before the respondent police at the time of enquiry, produced all the documents and complied with



the condition imposed by this Court and all the alleged forged documents are in the custody of Sales Tax Authority and defacto complainant, the custodial interrogation of the petitioners is not required. Hence, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners 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.IV, Madurai on condition that each of the petitioners 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 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].



compliance report to the office of the learned Government Advocate,
as to whether the petitioners are complying with the condition or
not.

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sd/-
18/08/2016

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.IV
MADURAI
- 2 THE CHIEF JUDICIAL MAGISTRATE
MADURAI
- 3 THE INSPECTOR OF POLICE
SAMAYANALLUR POLICE STATION
MADURAI DISTRICT.
- 4 THE THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S P.ANDIRAJ Advocate SR.No.45914
+1 cc to Mr.T.ANTONY ARUL RAJ, Advocate, Sr.No: 45914

jam/24.08.16/db/SAR III/6p-7c

ORDER
IN
CRL OP (MD) No.13111 of 2016
Date :18/08/2016