

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Eighth day of April Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice S. VAIDYANATHAN

CRIMINAL ORIGINAL PETITION No.6588 & 2898 of 2017

& IN CRL MP.NOs.6320 & 6258 OF 2017

MAHENDRA PRABHU

[PETITIONER / ACCUSED
IN CRL OP.NO.6588 OF 2017]

P.KRISHNAN

[PETITIONER / ACCUSED
IN CRL OP.NO.2898 OF 2017]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
CCB SALEM
CR.NO.6 OF 2017.

[RESPONDENT IN ALL THE PETITIONS]

N.NEELAMEGAM

[PETITIONER/DEFACTO COMPLAINANT
IN CRL MP.NOs.6320 & 6258 OF 2017]

(ORDERED AS PER ORDER OF THIS COURT DATED 28/04/2017 MADE IN CRL
MP.NOs.6320 & 6258 OF 2017)

For Petitioner : M/S.T.M.HARIHARAN Advocate
[IN CRL OP.NO.6588 OF 2017]

For Petitioner : M/S.S.RAJAKUMAR Advocate
[IN CRL OP.NO.2898 OF 2017]

For Respondent : MR. P.MUTHU KUMAR, Govt. Advocate (Crl. Side)
[IN ALL THE PETITIONS]

For Intervenor : M/S.S.GUNALAN Advocate [IN ALL THE PETITIONS]

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

ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent-Police for the alleged offences punishable under Sections 420 IPC and Section 4 of the Prize Chits and Money Circulation Schemes (Banning) Act, in Crime No.6 of 2016 on the file of the respondent-Police, the petitioners/A5 and A7 have come forward with these petitions seeking anticipatory bail.

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

3. The case of the prosecution is that one Neelamegam has lodged a complaint against the petitioners herein and others accused alleging that in the year 2013, A6 and A7 have approached the de-facto complainant and got introduced to the petitioners and other accused A2 to A4 who were all Directors of M/s.Hermoine Financial Solutions Private Limited, a company registered under the Companies Act, 1956. A6 and A7 have introduced to the scheme of the Company to its investors under Scheme 1 and the investors can invest Rs.3 lakhs and in return, the Company assured to pay Rs.15,000/- per month to the investors and under Scheme 2, the investor can invest Rs.15 lakhs and in return, the Company pays Rs.1,30,000/- per month. The investor can withdraw his principal amount any time after one year. The de-facto complainant has invested Rs.1,66,95,000/-.

4. It is not in dispute that the petitioner (A5) in Crl.O.P.No.6588 of 2017 is the Director of the said Company, for whom, Mr.T.M.Hariharan, learned counsel is appearing and for the petitioner (A7) in Crl.O.P.No.2898 of 2017 who pretended as one of the Directors of the said Company, Mr.S.Rajakumar, learned counsel is appearing. It is submitted by the learned counsel for the petitioners that the business was not doing well and in fact, the petitioners have disbursed huge part of the money payable to 348 investors, which is found in the typed set of papers filed along with the Crl.O.P.No.6588 of 2017. It is further submitted that the petitioners are not going to run away from the scene and they will certainly pay the dues to the parties. It is also stated that the petitioners had no intention to defraud any one much less the investors. It is stated that the petitioner/A7 in Crl.O.P.No.2898 of 2017 is a Marketing Agent employed by the Company and the Directors, for a paltry sum of Rs.25,000/- as salary and the counsel for A7 submitted that A7 has no role to play in the alleged offences and he is only an employee in the Company. It is further stated by the learned counsel for the petitioners that huge amount to the tune of Rs.20 crores is due to the investors and the learned counsel submitted that payments have been made to some of the investors. Learned counsel for A-7 wanted to cross-check the statement made by the learned counsel for A-5. However, both the learned counsel prayed that while granting anticipatory bail, stringent condition may be imposed on the petitioners/A5 and A7 so that the poor investors are not put to further loss and sufferings. Mr.T.M.Hariharan, learned counsel for A5 produced the authenticated statement duly signed by A5 before this Court showing the payments made to some of the investors. He also submitted that A-5 would deposit Rs.5 lakhs by way of cash and also will show the immovable property worth not less than Rs.10 lakhs either belonging to him or his relatives or third parties.

5. Taking note of the submissions made and as the matter requires serious investigation to be done expeditiously, this Court is inclined to grant anticipatory bail to the petitioners/A5 and A7, more particularly when the other Directors have been granted the

relief of anticipatory bail.

6. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.5, Salem, subject to the following conditions:

(i) The petitioner/A5 in CrI.O.P.No.6588 of 2017 shall deposit Rs.5 lakhs (Rupees five lakhs only) by way of cash before the Court below within fifteen days from today and he shall also produce the title deeds of immovable property worth not less than Rs.10 lakhs either belonging to him or his relatives or third parties before 31.05.2017.

(ii) Each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five 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 them or to the satisfaction of the learned Judicial Magistrate No.5, Salem;

(iii) the petitioners shall report before the respondent-Police daily at 10.30 a.m. until further orders;

(iv) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(v) the petitioners shall not abscond either during investigation or trial;

(vi) the petitioners shall not leave Tamil Nadu or India without the prior permission of the Court below;

(vii) the petitioners shall surrender their Passports before the Court below;

(viii) On breach of any of the aforesaid conditions, the 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 were released on bail by the Magistrate himself/Trial Court itself as laid down by the Supreme Court in the case of P.K.Shaji Vs. State of Kerala (AIR 2005 SCW 5560).

-sd/-
28/04/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.5 SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP.BY
THE INSPECTOR OF POLICE,
CCB SALEM.

CC to M/S.T.M.HARIHARAN Advocate on payment of necessary
charges

+1 CC to M/S.S.GUNALAN Advocate on payment of necessary charges
SR.NO.8094

+1 CC to M/S.G.M.ANANDHA KUMAR Advocate on payment of necessary
charges SR.NO.26144

CRL OP.6588 & 2898/2017
& IN CRL MP.NOs.6320 & 6258 OF 2017

Date :28/04/2017

PTI-02/05/2017