

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eleventh day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL ORIGINAL PETITION No.13897 of 2018

JAYA

[PETITIONER / ACCUSED]

Vs

STATE REP. BY,
INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
SALEM.
CR.NO. 13 OF 2017.

[RESPONDENT]

For Petitioner : M/S.R.NALLIYAPPAN Advocate

For Respondent : MR.KRITIKA KAMAL.P Govt. Advocate (Crl. Side)

For Intervener : M/S.M.MURALI Advocate

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 408 and 380 IPC in Crime No.13 of 2017, seeks anticipatory bail.

2. On the complaint lodged by Dharendra Kumar Jha, Branch In-charge of MAIIA Commodity Management Pvt. Ltd., (hereinafter referred to as "MAIIA Commodity"), the respondent police registered a case in Crime No.13 of 2017 on 28.08.2017 for the offences under the aforementioned Sections against Paramasivam, Proprietor of M/s.Sudarsan Traders, Maramangalathupatty, Salem (A1) Jaya, Proprietor of M/s.Karthikaa Sales Corporation, Maramangalathupatty, Salem (A2) and others. It may be relevant to state here that A3 to A5, who are named in the FIR are employees of MAIIA Commodity.

3. It is the case of the *de facto* complainant that they were appointed by Axis Bank, Salem, for providing collateral Management Services, pursuant to which, MAIIA Commodity entered into an agreement with M/s.Sudarsan Traders and M/s.Karthikaa Sales Corporation, for maintaining the stocks of sago that were pledged by M/s.Sudarsan Traders and M/s.Karthikaa Sales Corporation with Axis Bank, Salem. In other words, MAIIA Commodity were required to maintain the stocks of sago for and on behalf of Axis Bank, Salem, which had sanctioned a loan of Rs.2 Crores to M/s.Sudarsan Traders and M/s.Karthikaa Sales Corporation. While so, when MAIIA Commodity checked the stocks of sago, they found that Rs.95 lakhs worth of sago

had been removed with the connivance of A3 to A5, who are the staff of MAIIA Commodity. Hence, the FIR.

4. The learned counsel for the petitioner submitted that MAIIA Commodity have no *locus standi* to lodge the complaint and it is only the Axis Bank, Salem, which can have any grievance in this regard.

5. The police have filed their counter narrating the facts and circumstances of the case and objection for the grant of anticipatory bail.

6. This Court gave its anxious consideration to the rival submissions.

7. On a perusal of the lease deed dated 28.03.2016 entered into between the business enterprises run by Paramasivam (A1) and her wife Jaya (A2), and MAIIA Commodity, it is seen that in clause 13, it has been clearly stated that the goods are being kept for and on behalf of the Axis Bank, Salem, in the godown belonging to the petitioner, but, under the control of MAIIA Commodity. If there is any pilferage, MAIIA commodity will be held liable for it. Therefore, it cannot be stated that they do not have *locus standi* to lodge a complaint. That apart, *locus standi* is foreign to criminal jurisprudence unless it is specially governed by a statute.

8. In this case, the offences alleged against the petitioner is under the Indian Penal Code and there is no prohibition in MAIIA Commodity setting the criminal law into motion.

9. Taking into consideration the serious allegations in the FIR against the petitioner, this Court is of the view that this is not a fit case to grant anticipatory bail to the petitioner. However, the learned counsel for the petitioner submitted that the petitioner is ready and willing to deposit a sum of Rs. 5,00,000/- without prejudice to her defence.

10. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate, Salem, 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 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall deposit a sum of Rs.5,00,000/- (Rupees five lakhs only) with Axis Bank, Salem, towards the loan account.

[c] the petitioner shall report before the respondent police

daily at 10.30.a.m. for a period of four weeks and thereafter, as and when required for interrogation.

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

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

11/07/2018

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,
SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH, SALEM.

5 THE BRANCH MANAGER
AXIS BANK, SALEM

+1 CC to M/S.R.NALLIYAPPAN Advocate on payment of necessary charges SR.NO. 12853

CRL OP.13897/2018

RD 18/07/2018

Date :11/07/2018