

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixteenth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN
CRIMINAL ORIGINAL PETITION No.26124 of 2018

P.M.SWAMINATHAN [PETITIONER / ACCUSED]

Vs

STATE REP BY ITS [RESPONDENT]

THE INSPECTOR OF POLICE,
COIMBATORE CITY CRIME BRANCH,
COIMBATORE DISTRICT.

[*]CR.NO.49 OF 2018.

For Petitioner : M/S.V.BALAMURUGANE Advocate

For Respondent : M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioner/A1, who apprehends arrest for the alleged offences punishable under Sections 406, 420, and 506(i) of IPC, in **[*]Crime No. 49 of 2018** on the file of the respondent police, seeks anticipatory bail.

2. Heard both sides.

3. The case of the prosecution is that the accused is the petitioner herein and three others were partners of "Sai Murugan Enterprises", in which the defacto complainant invested a sum of Rs.2,75,00,000/- (Two Crores Seventy Five Lakh Only). After receipt of the same, the petitioner did not do anything on the part of the Partnership Firm. Since the defacto complainant questioned the same, he threatened him with dire consequences and also to kill the defacto complainant. Hence the complaint.

4. The learned counsel for the petitioner would submit that the petitioner is also one of the Partners in the said Partnership Firm. The 1st Partner [P.Savithiri] is the wife of the defacto complainant, the 2nd Partner [S.Palanisamy] is the husband of the defacto complainant, the 3rd Partner [P.M.Swaminathan] is the petitioner herein, the 4th Partner [P.Divya] is the daughter of Mr.S.K.Parthipan and the 5th Partner [P.Siddarthan] is the son of the petitioner herein.

5. The learned counsel further submitted that even as per the petitioner, 30 cheques had been given only to the 2nd and 5th

Partners of the Partnership Firm. In this regard, the petitioner has also filed a suit in O.S.No.1084 of 2017 as against the defacto complainant and it is pending on the file of the Principal Sub Court, Coimbatore. In fact, the learned counsel further submitted that the defacto complainant lodged a complaint, dated 07.02.2018 before the Commissioner of Police, Coimbatore Corporation, Coimbatore, in which the enquiry was conducted and closed. Thereafter, the present complaint has been filed with further allegation that they have been threatened by the petitioner, with dire consequences.

6. The learned Additional Public Prosecutor would submit that the defacto complainant invested a sum of Rs.2,75,00,000/- (Two Crores Seventy Five Lakhs Only) in the Partnership Firm viz., "Sai Murugan Enterprises" in which the petitioner and his wife were 3rd and 4th Partners. Instead of putting the money into the Partnership Firm, they have taken the entire money and started a separate Company. Further, they also threatened the defacto complainant with dire consequences and compelled him to withdraw the above said complaint filed as against the petitioner. Therefore, he prays for grant of anticipatory bail to the petitioner.

7. On a perusal of the records, it is seen that the petitioner is also one of the Partners of the said firm, in which the defacto complainant is the wife, and the son of the defacto complainant is also one of the Partners. According to the prosecution, the amount was invested by the defacto complainant in a sum of Rs.2,75,00,000/- (Two Crore Seventy Five Lakhs Only) and the major Partners are the defacto complainant, his wife and son. It is also seen that the petitioner has filed the suit in O.S.No.1084 of 2017 as against the defacto complainant and his wife and it is pending on the file of the Principal Sub Court, Coimbatore.

8. It is also seen that with regard to any dispute between the Partners, in the Partnership Firm Deed, there is a Clause in Clause No.20, which reads as follows:

"Any dispute or difference of opinion which may arise among the partners, or their representative with regards to the Construction, meaning or effects of any clause of this deed of partnership or regarding the accounts, profits or losses of the business or any other matter related to the firm shall be resolved by an arbitrator duly nominated by the partners".

Therefore, with regard to the further allegation that the petitioner threatened the defacto complainant with dire consequences, in fact, the defacto complainant had already lodged a complaint, dated 07.02.2018 before the Commissioner of Police, Coimbatore, and it was enquired and closed.

9. Taking into consideration the facts of the case and the submissions made by the learned counsels, this Court is inclined to

grant anticipatory bail to the petitioner.

10. Accordingly, the petitioner 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 No.VII, Coimbatore, 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 said Magistrate, on further condition that:

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the 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.

-sd/-

16/11/2018

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.

[*] Crime No is amended as per order of this court dated 13/12/2018 made in CrI.MP.NO.16904 of 2018 in CrI.OP.NO.26124 of 2018

TO

1 THE JUDICIAL MAGISTRATE,
NO.VII, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
COIMBATORE CITY CRIME BRANCH,
COIMBATORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.V.BALAMURUGANE Advocate on payment of necessary charges

CRL OP.26124/2018

Date :16/11/2018

MLT-23/11/2018

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