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

Friday, the Second day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.390 of 2018

T. VINOTH ... PETITIONER/ACCUSED

Vs

THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
MADURAI DISTRICT.
CRIME NO.20/2017 ... RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.ANAND for M/S.V.MAHARAJAN, Advocate

For Respondent : M/S.A.ROBINSON, Government Advocate (Crl.Side)

For Intervenor : M/S.S.RAMESH for M/S.V.RAGHAVACHARI, Advocate

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

ORDER : The Court Made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 120(b), 468, 471, 408, 477(A), 420 and 506(ii) I.P.C., in Crime No.20 of 2017, on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner herein was working as a manager in the defacto complainant's petrol bunk, when at that time of occurrence, he had misappropriated nearly a sum ofRs.2,44,72,735/- with ulterior motive and transferred the same to the account of his family members. Hence, the defacto complainant lodged a complaint against this petitioner.

3.The learned counsel appearing for the petitioner submitted that the defacto complainant was running a crusher under the name and style of Ashajothi Blue Metal. The petitioner was appointed as an employee in that concern. Due to the irresponsibility, the defacto complainant met great loss. Hence, he borrowed huge amount from several persons for exorbitant interest. Due to the defacto complainant's compulsion, the petitioner’s father gave a sum of Rs.14.25 lakhs and 32 sovereign gold as part investment to that business. At that time, the defacto complainant had given assurance that he will hand over the same to the petitioner. But, he did not heed up assurance. When the petitioner and his father approached the defacto complainant to return the money and jewel, he had given a false complaint against the petitioner and others by forged the petitioner's signature in the stamp papers and at his influence the respondent police often tortured the petitioner and others. He further submitted that the petitioner is an innocent person, he has not committed any offence as alleged by the prosecution. Hence, he prays anticipatory bail to the petitioner.

4.The learned counsel appearing for the intervener submitted that the first petitioner herein was working as a Manager in the defacto complainant’s petrol bunk, when at that time of occurrence, by creating false documents, he misappropriated a sum of Rs.2,44,72,735/- and transferred the same to the name of his family members, who are arrayed as A2 to A7 in this case. When the defacto complaint insisted for the payment, the first accused was repeatedly evading and ultimately on 03.02.2016, he acknowledged the liability, thereby, he had executed an assurance deed on 03.02.2016. But, till now he has not paid the above said amount. Hence, he vehemently opposed to grant anticipatory bail to the petitioner/A1.

5.The learned Government Advocate(Criminal Side) appearing for the State submitted that the petitioner admitted his guilt and executed an unregistered promissory note in favour of the defacto complainant. He further submitted that the statement of accounts obtained from the bank, indicates that the petitioner transferred the huge amounts to his family members. According to him, investigation is still pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

6.Upon considering the arguments advanced by either side, it is alleged that the petitioner herein was working under the control of the defacto complainant. Admittedly, the petitioner provide with a power to manage the business. After a period of three years from the date of appointment, the defacto complainant made allegation against this petitioner, as a result of which, the petitioner herein on 03.02.2016, executed an assurance deed, in which, the petitioner admitted the entire allegation and assured to repay the misappropriated amount within a period of one month. Considering the first and foremost contention raised by the learned counsel appearing for the petitioner that the petitioner’s signature found in the alleged assurance deed is entirely different from the signature found in the letter attested by the petitioner, this Court finds that the signature found in the letter, which was mentioned by the petitioner is extracted in the year 2017, the signature found in the assurance letter is obtained in the year 2016. So, the difference of comparing the signature of the petitioner is not a ground, since investigation is pending.

7.Secondly, the learned counsel appearing for the petitioner submitted that no amount, which was alleged to be misappropriated was transferred to the account of petitioner maintained in I.C.I.C.I Bank, bearing Account No.612201006508. It is true that the value of the amount which was misappropriated and maintained in the petitioner's account is very small. However, on go through the assurance letter given by the petitioner, he categorically admitted that some of the amount was transferred to his relatives account. Hence, in this aspects, custodial interrogation will only reflects clear picture. As of now, other accused involved in this case obtained an order of stay for the process of investigation. So, in these circumstances, custodial interrogation of the petitioner will be given proper solution to find out the real culprit in this case. Considering the facts and circumstances of the petitioner and also considering the gravity of offence committed by the petitioner, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, the Criminal Original Petition is dismissed.

sd/-
02/02/2018

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

TO

1 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, MADURAI DISTRICT.

2 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.RAGHAVACHARI, Advocate SR.No.1872

ORDER
IN
CRL OP(MD) No.390 of 2018
Date :02/02/2018

PK/PM-PN/SAR-2/13.02.2018 : 3P/4C