



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

Wednesday, the Thirtieth day of May Two Thousand Eighteen

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PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL OP(MD) No.8210 of 2018

TR.DHANAPAL

... PETITIONER/ACCUSED-3

Vs

DEPUTY SUPERINTENDENT OF POLICE,
THE OFFICER IN CHARGE OF THE POLICE STATION,
IDOL WING-CRIMINAL INVESTIGATION DEPARTMENT,
C48, OLD SIDCO CORPORATION BUILDING,
THIRU.VI.KA.INDUSTRIAL ESTATE,
GUINDY, CHENNAI-32.

... RESPONDENT/COMPLAINANT

For Petitioner : DR.A.THIYAGARAJAN, Senior counsel for
M/S.S.KARUNAKAR, Advocate

For Respondent : MR.CHELLAPANDIAN, Additional Advocate General
Assisted by MR.PRABHU RAMACHANDRAN,
Government Advocate (Crl.Side)

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

ORDER : The Court Made the following order :-

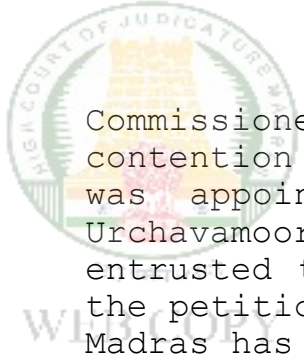
The petitioner, who is arrayed A3 apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 403, 409, 418, 420 r/w 120-B and 477A IPC, in connection with a case, in Crime No.1 of 2018 on the file of the respondent police and hence, seeks anticipatory bail.

2.According to the prosecution, offence of criminal breach of trust involving dishonest defalcation of more than 150 Kgs of entrusted gold had been committed between 2003-2004 in respect of the newly made Dhandayuthapani Urchavar Panchaloga Idol.

3.Heard the learned Senior counsel appearing for the petitioner and the learned Additional Advocate General appearing for the State and perused the materials available on record.

<https://hcservices.ecourts.gov.in/hcservices/>

4.It is seen from the records that the petitioner was Joint



Commissioner at the time of the alleged occurrence. The first contention put forth on the petitioner's side is that the petitioner was appointed as Coordinator to complete the work of second Urchavamoorthy Idol of Dhandayuthapani and no metal was not entrusted to the petitioner by any person including the public and the petitioner is not an expert in making the Idol by metals and IIT Madras has also not competent to give any certificate and hence, the petitioner is not responsible for the alleged misappropriation.

5.It is admitted on the side of the petitioner that he was appointed as Coordinator to complete the work of making the Idol. Hence, as a Coordinator, the petitioner plays very important role and it is his bounden duty to supervise the work.

6.It is admitted by both sides that the second Urchavarmoorthy Idol was ordered to be cast with a weight of 200 kgs including 10 kgs of gold in composition. But in the investigation, it was found that the gold content in the Idol was 22 kgs of gold and hence, there was excess of 12 kgs of gold. Hence, it is submitted on the petitioner's side that there was no offence could be made out as against the petitioner.

7.On the other hand, it is stated on the side of the respondent that there was donation of gold given by the public and by the foreigners that was estimated at 150 kgs of gold and hence, the estimated gold might have been misappropriated by the accused.

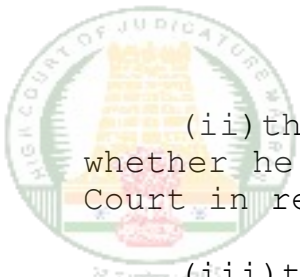
8.It is admitted that there is excess quantity of gold in the new idol and there was collection of gold from outside source. No document was filed to prove from whom and how much amount of gold was received from the devotees. Further, no document was filed to prove that who has given permission to collect the excess gold from the devotees. As a coordinator, the petitioner is responsible for casting of new Idol and it is the duty of the petitioner to maintain the records for receipt of the gold from outsiders. But no document was produced to show the collection of the golds from outsiders. Hence, there is a chance of misappropriation of gold received from the outside among the accused.

9.The second contention put forth on the side of the petitioner is that before granting anticipatory bail, the court has to follow the guidelines, but in this case, proper guidelines were not followed and prays that the petitioner is entitled to anticipatory bail. For the above contention, the learned counsel for the petitioner submitted the ruling reported in **2012(8) SLT 297 (Shobhan Singh Khanka vs. State of Jharkhand)**, wherein the Hon'ble Apex Court held as follows:-

"While considering the claim of pre-arrest bail, the following facts have to be considered:

<https://hcservices.ecourts.gov.in/hcservices/>

(i)the nature and gravity of the accusation;



(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested. Considering the limited allegation in the FIR other details, his academic qualifications including the fact the he does not belong to the State of Jharhand and has no relatives and is not a Member of the JPSC, acted as Expert No.1, only for a short period, the appellant has made out a case for anticipatory bail. Even if the prosecution has any apprehension, sub-section (2) of Section 438 enables the court concerned to impose such conditions/directions as it may think fit."

10. In this case, the offences are grave in nature. Further, it is stated on the prosecution side that the investigation is still pending. Since the offences committed by the accused persons are grave in nature and the investigation is still pending, this court is not inclined to grant anticipatory bail to the petitioner. Further, the reasons stated in the petition cannot be accepted. Hence, in the interest of justice, this criminal original petition is **dismissed**.

sd/-

30/05/2018

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

TO

1 DEPUTY SUPERINTENDENT OF POLICE,
THE OFFICER IN CHARGE OF THE POLICE STATION,
IDOL WING-CRIMINAL INVESTIGATION DEPARTMENT,
C48, OLD SIDCO CORPORATION BUILDING,
THIRU.VI.KA.INDUSTRIAL ESTATE, GUINDY, CHENNAI-32.

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

+1. CC to M/S.S.KARUNAKAR Advocate SR.No.9227

ORDER IN

CRL OP(MD) No.8210 of 2018

Date : 30/05/2018

SMA/CM-VR/RNB/06.06.2018:3P/4C