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

Friday, the Twenty Eighth day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) Nos.13861, 13682, 15963, 15982 and 16103 of 2018

RAMANARAYANAN, ... PETITIONER / ACCUSED RANK NOT KNOWN IN CRL OP(MD).NO.13861 OF 2018

INDHUMATHI ... PETITIONER / ACCUSED RANK NOT KNOWN IN CRL OP(MD).NO.13682 OF 2018

RAJI ... PETITIONER / ACCUSED RANK NOT KNOWN IN CRL OP(MD).NO.15963 OF 2018

DHEEBA SOURKKANAYAHI ... PETITIONER / ACCUSED RANK NOT KNOWN IN CRL OP(MD).NO.15982 OF 2018

JAYALAKSHMI ... PETITIONER / ACCUSED RANK NOT KNOWN IN CRL OP(MD).NO.16103 OF 2018

Vs

STATE REP.BY ITS
THE INSPECTOR OF POLICE,
THENKARAI POLICE STATION,
PERIYAKULAM, THENI DISTRICT. ... RESPONDENT / COMPLAINANT
(CRIME NO.309 OF 2018) (IN CRL OP(MD).NOS.13861,15963,15982/18)

(CRIME NO. NOT KNOWN OF 2018)... IN CRL OP(MD).NO.13682 OF 2018

STATE REP.BY ITS
THE SUB-INSPECTOR OF POLICE,
THENKARAI POLICE STATION,
PERIYAKULAM, THENI DISTRICT. ... RESPONDENT / COMPLAINANT
(CRIME NO.309 OF 2018) ...IN CRL OP(MD).NO.16103 OF 2018

VEYIL MUTHU ... PETITIONER/DEFACTO COMPLAINANT IN CRL MP(MD).NOS.6371,6915/18

For Petitioner : MR.E.OM PRAKASH SENIOR COUNSEL FOR
MR.L.M.VIJAI BOOMINATHAN
...IN CRL OP(MD).NO.13861 OF 2018

: MR.A.K.MANICKAM
IN CRL OP(MD).NO.13682 OF 2018

: MR.V.SASIKUMAR
IN CRL OP(MD).NO.15963 OF 2018

: MR.S.SUKUMAR
IN CRL OP(MD).NO.15982 OF 2018

: MR.A.BASKARAN
IN CRL OP(MD).NO.16103 OF 2018

For Respondent : MR.K.CHELLAPANDIAN,
ADDITIONAL ADVOCATE GENERAL ASSISTED BY
MR.V.NEELAKANDAN,
ADDITIONAL PUBLIC PROSECUTOR
(IN ALL PETITIONS)

For Intervenor : MR.R.PON KARTHIKEYAN Advocate
in CRL OP(MD).NO.13682, 13861 OF 2018

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

RESERVED ON :24.09.2018
PRONOUNCED ON : 28.09.2018

ORDER : The Court Made the following order :-

The case of the prosecution is that the defacto complainant/A.Veyil Muthu lodged a complaint alleging that while he was working as a load man in the 'Dhal Mill' owned by one Velmurugan (A2), along with five other persons were brought to Periyakulam by Senbagan(A1), Velmurugan (A2) and Indhumathi (A3) to take insurance policy for them. They were taken to the State Bank of India, Periyakulam Branch where the Manager of the State Bank of India, Periyakulam obtained signatures from them in various documents and they were signed believing that the signatures obtained only for insurance policy. After a period of one year, the defacto complainant received a notice from the State Bank of India, Periyakulam Branch calling upon him to pay a sum of Rs.40,14,865/- as he borrowed a loan to the tune of Rs.37,46,000/-. Immediately, after the receipt of the notice, the defacto complainant enquired with the Bank and he was informed that he borrowed a loan on the basis of the pledging of grains stocked in the ware-house. Thereafter, it was informed to A1 to A3 by the defacto complainant, in which, he was threatened with dire consequences by A1 to A3. Further, they were also threatened that if he chose to divulge any information to any higher authority or police personnel, he will be finished off. The other persons i.e., Kaliappan, Kalidoss, Ganesan, Mariappan and Thangamari who were also taken by A1 to A3 for getting insurance policy in their favour and in their names also various loans were obtained and the State Bank of India demanded them to pay the loan amount with interest.

2.After receipt of the complaint, the respondent police registered a case in Crime No.309 of 2018 for the offence under Sections 406, 465, 468, 471, 420, 294(b) and 506(i) I.P.C. But the defacto complainant never borrowed such a huge sum of loan and he never deposited any agricultural produces in the ware-house since he did not possess any land to cultivate. Hence, the complaint.

Crl.O.P.(MD)No.13861 of 2018

3.Mr.E.Om.Prakash, learned Senior Counsel for the petitioner submitted that he is working as Chief Manager of the State Bank of India, Periyakulam Branch. The branch having loan facility to the farmers and trade people for pledging their commodity with the Tamil Nadu State Government Warehousing Corporation and the Bank will sanction Produce Marketing Loan up to 70% from the value of the commodity which would pledge by the borrowers. In this regard, the defacto complainant approached the petitioner's branch and pledged his commodity of Black Gram and Coffee Seeds with the Tamil Nadu Government Warehousing Corporation and availed loan from the State Bank of India to the tune of Rs.37,46,000/-. Since the produce marketing loan is an one year term loan to the short fall on the commodity, the petitioner issued notice to the borrower to repay the loan amount with interest. On receipt of the said notice, instead of repaying the loan amount, the defato complainant lodged the present complaint with false allegations. Further, he would submit that the petitioner is being the Chief Manager, he followed all requirements and on the basis of certificates issued in respect of deposit of commodities possession of land and value of commodity and disbursed the loan. As such, he did not commit any crime. Therefore, he prays for anticipatory bail for the petitioner.

Crl.O.P.(MD)No.13682 of 2018

4.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. She got married and she is living separately with her husband at Coimbatore. She has no knowledge about the day-to-day affairs of the business of her father Shenbagan (A1) and his maternal uncle (A2). She is not at all a partner or whatsoever in the business and also has no role in the business as alleged by the prosecution with the Bank. Therefore, she prays for anticipatory bail.

Crl.O.P.(MD)No. 15963 of 2018

5.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. Though she is the wife of the first accused, she is nothing to do with the alleged transaction between the complainant and the second accused. Only because she happens to be the wife of the first accused, she has been implicated as an accused. Therefore, she prays for anticipatory bail.

Crl.O.P.(MD)No.16103 of 2018

6.The learned counsel appearing for the petitioner submitted that on the basis of the confession statement given by the co-accused, the petitioner has been implicated as an accused. She is not aware of the facts of the case whereas the petitioner came to understand that the petitioner has given valuation certificate for Dhall. Based upon the valuation certificate, all the persons were obtained loan. He would further submit that the petitioner is working as a Manager in the Tamil Nadu Ware Housing Corporation Limited, Batalagundu. She is nothing to do with the above case whereas she has given certificate only based upon the market value of the Dhall. Therefore, she sought for anticipatory bail.

Crl.O.P.(MD)No,15982 of 2018

7.The learned Senior Counsel appearing for the petitioner would submit that the petitioner was working as a Deputy Manager of the State Bank of India, Periyakulam Branch. The said Branch has loan facility to the farmers and trade people for pledging their commodity with the Tamil Nadu State Warehousing Corporation. The Bank will sanction Produce Marketing Loan up to 70 % from the value of the commodity which would pledge by the borrowers. As per PML scheme, the framers can avail loan upto Rs.50,00,000/- by pledge or hypothecation of their farm products of commodity. The produce marketing loan is an instant loan which would be sanctioned to the borrower for a period of one year. Likewise, the defacto complainant and others approached the petitioner's branch to avail produce marketing loan and pledged their commodity of Black Gram and coffee seed with the Tamil Nadu State Warehousing Corporation and availed loan from the Bank to the tune of Rs.37,46,000/-. Therefore, on verification of all the requisite documents and after marking black gram, they disbursed the loan to the tune of Rs.37,46,000/- to the defacto complainant. As he did not repay the said loan amount, they issued demand notice to the defacto complainant to repay the loan amount as agreed by him. Therefore, he is nothing to do with the case as alleged by the prosecution.

8.Per contra, the respondent filed counter and Mr.K.Chellapandian, learned Additional Advocate General appearing on behalf of the respondent in all criminal original petitions would submit that investigation is still under process and on investigation found that 14 accused involved in this case, in which, the first accused Shenbagan and the second accused,O.M.S Velmurugan were arrested on 31.07.2018. One Kalaiselvi (A5) was arrested on 15.08.2018. Further, in this connection, one Solairaj(A7) was arrested on 26.08.2018 and Sannasi (A-8) was arrested on 03.09.2018 and they were remanded to judicial custody.

9.On the confession statement of A1, A2 and A5, it is found that Shenbagan (A1) and Raji (A10) were involved and that they have used to go over to Mumbai and joined together and with a diabolic scheming devised a scheme whereby poor people were taken to the bank and obtained agricultural loan by depositing produce such as dhall, coffee in the warehouses in the name of several individuals and transferred the loan amount in the account of Velmuguan (A2). The Raji(A10) along with her husband (A1) and Daughter Indhumathi (A3) and son-in-law Vimal Kumar were the active participants in cheating poor workers. They devised a fool proof scheme with the active connivance of bank officials as well as the warehousing officials to perpetrate massive fraud.

10.He would further submit that the investigation is in initial stage and it is absolutely necessary that all the accused must be arrested and subjected to custodial interrogation to effect recovery of the case properties as well as establishing nexus in the crime committed by them. If the petitioners released on anticipatory bail, it would be very difficult to secure the other absconding accused persons. Since all of them have collective money and man power to trample with the evidence, they are all economic offenders with an unprecedented dimension and they are not only cheated the poor workers under the guise of getting insurance policy but also the bank with the support of the bank officials. He would further submit that the investigation so far revealed that the amount involved is around Rs.2 Crores and the complaint made is only a tip of the ice berg. All the accused persons have also been involved in massive rocket of cheating several banks by adopting the same modus operandi of obtaining marketing produce loan on the basis of the deposit of the grains such as dhall, coffee, coriander stocked in the public houses in the name of each individual and then transferred the loan from the bank account into the account of the second accused and thereafter, getting the same from the second accused and transferred the amount in favour of Vimal Kumar (A9) through Indhumathi (A3) and that Vimal Kumar (A9) had deposited the said amount by purchasing various properties. Further, Jeyalakshmi (A12), the Manager of the Warehousing Corporation has actively participated in the crime by giving false certificate on the grains deposited in the warehouses. Even, coffee seeds which are not raised in this part has been shown to be registered. Thus, the accused by joining together have collected more than Rs.2 Crores of public money.

11.The learned Additional Advocate General for the respondent relied upon the judgment of the Hon'ble Supreme Court *in **Crl.A.No.1496 of 2009*** in ***Maninder Singh Vs. CBI*** wherein it has been held as follows*:*

> *"If the prosecution against the economic offenders are not allowed to continue the entire community is aggrieved, the Court said. The Court further said "Economic Offence is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned is a well planned and was committed with a deliberate design with an eye of personal profit regardless of consequence to the society at large". The Court also added that economic offences, in this era, "are actually public wrongs or crimes committed against society and the gravity and magnitude attached to these offences is concentrated at public at large". The Hon'ble Supreme Court in Criminal Appeal No.730 of 2013, arising out of S.L.P (Crl) No.3404 of 2013 in Y.S.Jegan Mohan Reddy Vs. Central Bureau of Investigation observed that "Economic Offences, having deep rooted conspiracy and involving huge loss of public funds, need to be viewed seriously and considered as grave offences affecting the economy of the*

country as a whole and thereby posing serious threat to the financial health of the country". The Hon'ble Supreme Court in 'Sathyam case' as well as in the recent 'Sahara case' formulated bench marks to treat the offenders involved in economic offences in isolation by taking into consideration of the fraud committed by them which has to be weighed against the society at large."

Therefore, he vehemently opposed to grant anticipatory bail to the petitioners and sought for dismissal of the petitions for anticipatory bail.

12.Heard the learned Senior Counsel for the petitioner, learned counsel for the petitioner and the learned Additional Advocate General for the respondent.

13.The master circular has been issued for produce marketing loan (hereinafter called as 'PML') on 01.08.2011 extending financial help against the pledge/hypothecation of farm produce under agreed priority sector is raised from Rs.10,00,000/- to Rs.50,00,000/-. The purpose of PML is a short term loan given to farmers against the security of fungible farm produce either stored at farmer's own place or stored in accredited warehouses. This is aimed at enabling the farmers to avoid distress sale immediately after harvest when the prices are usually low, by providing necessary liquidity support against pledge of these commodities. Further, Full KYC for borrowal account will be done in terms of Bank's Revised Policy and Procedure. Further, the borrower's land details will be examined to ascertain his vocation and justification for the agricultural loan. In this pattern, these persons availed loan on their deposits of black gram and coffee seeds in the following manner:-

S.NO	ACCT NO	CUST NME	LIMIT Rs.	SANCTDT	COMMADOTY
1	37106227306	VEILU MUTHU A	3746000	23/08/2017	Black Gram
2	36983275823	THANGAMARI R	2920000	03/07/2017	Coffee Seed
3	36985020010	THANGAMARI R	948000	04/07/2017	Coffee Seed
4	36988727388	THANGAMARI	560000	06/07/2017	Coffee Seed
5	37023731102	KALIYAPPAN MURUGAN	3185000	18/07/2017	Coffee Seed
6	37063395026	KALIDASS V	2988000	03/08/2017	Coffee Seed
7	37063420984	GANESAN V	2120000	03/08/2017	Coffee Seed
8	37069356455	GANESAN V	2557000	05/08/2017	Coffee Seed
9	37239817326	MARAPPAN V	1483000	16/10/2017	Black Gram

				20507000		

14.It seems that the defacto complainant Veyilmuthu and five others were working as a load-man and coolies in the Dhall Mill owned by O.M.S.Vel Murugan (A2). All of them were brought to the State Bank of India and obtained their signatures to take insurance policy. All of them were sanctioned loan from the Sate Bank of India as aforesaid manner and immediately, the entire loan amounts were transferred to the accounts of A1 to A10 as alleged by the prosecution. Thereafter, they have been issued demand notice to pay the loan amount with interest, since the stocks which were possessed by the various warehouses are short fall on the commodity. To their shock and surprise, on receipt of the said demand notice, they approached A1 to A3 accused persons and they were threatened with dire consequences to their life.

15.It is seen from the account statement of the defacto complainant and others, immediately after the disbursal of the loan amount, it has been transferred to the accused persons. Further, insofar as the case of Kalidas, is concerned, on 03.08.2017, he applied for loan on deposit of his agricultural produces of coffee seed with the quantity of 188 bags weighing 14232 kgs at the rate of 300 per kg. In accordance with the guidelines issued by the Reserve Bank of India, on deposit of agricultural produces, the warehouses were also issued valuation certificate to that effect and the field officer also certified that the said agricultural produces were produced by the said Kalidass Velu. The Village Administrative Officer also issued Adangal Certificate to the effect that the agricultural produces of coffee produced by the applicants. All the formalities completed on the same day ie., 03.08.2017. The Chief Manager of the State Bank of India sanctioned and disbursed the loan amount to the tune of Rs.29,88,000/- on the same day ie., 03.08.2017. The said entire amount has been immediately transferred to the account No.37061459. This account is owned by none other than the accused. In the same manner, all the loan amounts were sanctioned and disbursed on the same day and the entire amount has also been transferred in favour of the accused persons. The bank officials, warehouse manager and the revenue officials have done this crime with the other accused persons as hand in glove.

16.As submitted by the learned Additional Advocate General for the respondent, the investigation is in initial stage and the investigation done so far revealed that the amount involved in this crime around Rs.2 Crores. Further, it is only a tip of ice berg and it seems that the accused persons involved in massive rocket of cheating several banks by adopting the same method under the guise of PML on the basis of depositing grains. It is also very curious to note that the agricultural produces which were deposited by the persons who are not even possessing any piece of land and they are coolies and load man under the accused persons. Further, the said agricultural produces are not at all cultivated in the place where the Village Administrative Officer certified that the said persons are in possession of the said land. In fact, in respect of one Ganesan is concerned, the Village Administrative Officer issued Adangal extract that the said Ganesan is cultivating agricultural product of cotton. On such certificate, the bank officials sanctioned loan for depositing of the agricultural producers of the coffee seed. The said Ganesan is owned land measuring to an extent of 2.14.5 situate at Omathur Village, Virudhunagar Taluk, comprised in S.No.416/1 where he cultivated cotton. It shows that all the persons are not at all even possessing a piece of land and they never produced any agricultural produces and they never deposited any of the agricultural produces as mentioned by the bank officials. It is also seen that all the loan amounts disbursed to the said persons were immediately transferred to the account of the accused persons. Therefore, the innocent coolies and load man who were working under the accused persons used to raise funds to the tune of Rs.2 Crores so far from the Bank. The investigation is also in the initial stage and the prosecution has to investigate thoroughly and deeply. Further, this kind of crime, the custodial interrogation is very much essential to find out the properties and recovery of the said money. Further, these kind of economic offences are actually public crimes committed against the society and the gravity and magnitude attached to these offences is concentrated at public at large as held by the Hon'ble Supreme Court of India. Further, it is also a well planned and it was committed with a deliberate design with an eye of personal profit regardless of consequences to the society at large. Further, the Hon'ble Supreme Court held that while considering the bail petitions, the economic offences having deep routed conspiracy and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country. Therefore, the petitioners are not entitled for the relief of anticipatory bail and this Court is not inclined to grant anticipatory bail and these petitions are liable to be dismissed. Accordingly, all the anticipatory bail petitions are dismissed.

sd/-
28/09/2018

/ TRUE COPY /

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

TO

1.THE INSPECTOR OF POLICE,
THENKARAI POLICE STATION,
PERIYAKULAM, THENI DISTRICT.

2.THE SUB INSPECTOR OF POLICE,
THENIKARAI POLICE STATION,
PERIYAKULAM, THENI DISTRICT.

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

+1. CC to MR.R.PON KARTHIKEYAN Advocate SR.No.18530
+2. CCS to MR.S.SUKUAMR Advocate SR.No.18677,18676
+1. CC to MR.A.BASKARNA Advocate SR.No.18594

ORDER
IN
CRL OP(MD) Nos.13861, 13682, 15963, 15982 and 16103 of 2018
Date :28/09/2018

AE/RR/SAR2/04.10.2018/9P/8C