IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.2884 of 2019

K.SENTHIL MURUGAN [PETITIONER / ACCUSED]

Vs

STATE BY [RESPONDENT]
INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KANCHIPURAM.
CR.NO.25 OF 2018.

For Petitioner : M/S.I.ABRAR MD ABDULLAH Advocate

For Respondent : MR.M.MOHAMED RIYAZ,ADDL.PUBLIC PROSECUTOR

For Intervener : MR.R.C.PAUL KANAGARAJ Advocate

PETITION FOR ANTICIPATORY BAIL 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 offences punishable under Sections 120(b), 483, 420 r/w 34 IPC and Sections 65, 66 & 72 of Information Technology Act, 2000 in Crime No.25 of 2018 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that A2 to A5, the petitioners and A9 to A11 are all employees of the *defacto* complainant's company namely Good Rich Gasket Company Limited and in order to form new company in the name of Excellent Gasket Company Private Limited, while working in the *defacto* complainant's company, have committed a theft of confidential report viz., Design and tools of the product, casting formula, Quotation, Customer details such as, Customer's name, Address of the customers, Contact person's name, Phone, E-Mail, ID etc., Introduction Letter, Current Matrix details Export, Marketing Matrix Export, and Sea Shipment Freight Rat, all the mails received by the *defacto* complainant company were forwarded to Excellent Gasket Company Private Limited violating the confidential & non disclosure agreement through open message, whats app, and mails to Thiru.Ramamurthy, and thereby caused a huge loss to the extent of Rs.crores to *defacto* complainant company for the year 2016, 2017 and 2018. Hence, the *defacto* complainant lodged a complaint before the respondent Police.

3. The learned counsel for the petitioners would submit that the petitioner did not commit any offence as alleged by the prosecution and no records to show that the petitioners and others have forwarded the confidential information to another company violating the confidential & non disclosure agreement. He further submits that in the FIR only three crores loss has been stated, and as such there is no loss of Rs.2 crores as stated by the *defacto* complainant. Further he submits that the total income of the petitioners' company is only 19 lakhs, and pointed out that already this Court granted bail to A9 and A10 in Crl.O.P.No.20061 of 2018. Hence he prays for anticipatory bail to the petitioners.

4. The learned counsel appearing for the intervener would submit that A9 and A10 already arrested and because of non co-operation of the intervener, this Court arrived at a conclusion and enlarged the bail to them considering the period of incarceration undergone by them and the said order is not applicable to the present case since the petitioners being the colleague of A1, who is the main accused, had conspired with him, they are not entitled to anticipatory bail. Accordingly he prayed for dismissal of anticipatory bail.

5. The learned Additional Public Prosecutor appearing for the State would submit that there are totally 11 accused in this case, and A1, who is the main accused, was arrested and still in judicial custody. However, A9 and A10 were released on bail. She further submits that apart from the above allegations, the petitioners also sent emails to 3000 customers of the *defacto* complainant's company and thereby caused loss to the tune of Rs.2 crores. Hence she vehemently opposed to grant anticipatory bail to the petitioners.

6. Change of circumstances for considering the Anticipatory bail to the petitioner only on the medical ground. It is seen from the medical report, the petitioner had undergone Kidney transplant during 2011 and he has been advised continuous treatment for the same and is under severe medication till date due to the same.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a title deed worth not less than a sum of Rs.50,00,000/- (Rupees fifty lakhs only) stands in the name of the petitioner or his relatives to the credit of Crime No.25 of 2018 along with the valuation certificate given by the concerned revenue authority, within a period of two weeks from the date on which the order copy made ready, and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate II, Chengalpattu Chennai 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, failing which, the petition for anticipatory bail shall stand dismissed 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 title deed worth not less than a sum of Rs.50,00,000/- (Rupees Fifty lakhs only) stands in the name of the petitioner or his relatives to the credit of Crime No.25 of 2018, before the concerned Magistrate, within a period of two weeks from the date on which the order copy made ready.

[c] the petitioner shall appear before the respondent police daily at 10.30 a.m., for a period of two 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 abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-
13/02/2019

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,
NO.II, CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KANCHIPURAM.

+1 CC to M/S.I.ABRAR MD ABDULLAH Advocate on payment of necessary charges SR.NO. 13190

CRL OP.2884/2019

Date :13/02/2019

RD 21/02/2019