IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Fourth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION NO.12832 OF 2019

& CRL.MP.NO.7065 OF 2019

AMANI PRAVEEN KUMAR [PETITIONER / ACCUSED]

Vs

STATE BY INSPECTOR POLICE, [RESPONDENT]
TEYNAMPET - CRIME,
GREATER CHENNAI.
(CR.NO.1083/2018)

JOHN PANDIYAN [PETITIONER / INTERVENOR]
[Allowed as per order of this Court dated 24/07/2019 made in CRL.MP.NO.7065 OF 2019 IN CRL.OP.NO.12832 OF 2019]

For Petitioner : M/S.T.SAI KRISHNAN Advocate

For Respondent : MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR

For Intervenor : M/S.K.MOHANAMURALI Advocate

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/A.2, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 120 (B), 406, 417, 420, 464, 468 and 471 IPC in Crime No.1083 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that as per the complaint given by the defacto-complainant viz., Mr.John Pandiyan, he is a resident of Chennai and running the business in the name and style of "Sea Horse Marine Engineering Pvt., Ltd", Chennai in the field of Ship repair and building. While so, he was introduced to the Directors of M/s BKR Energy Private Limited, having registered Office at Hyderabad. Further, he was informed that the petitioner herein was the Benami Promoter, since he was a Government Servant in the Horticulture Department. The petitioner and the Directors had induced the defacto-complainant to invest in the Company to become Director of the Company and believing the project to be good, the defacto-complainant had accepted their offer and thereby, he invested an amount of Rs.25 lakhs by way of cash and Rs.11.50 lakhs through bank transactions. The cheque had been encashed and that an

undated consent letter was also taken from the defacto-complainant to become a Director in the Company. Thereafter, the letter had been dated as 28.05.2013 and the defacto-complainant's name was entered in the website with the Registrar of Companies. After the above payments, the Directors have shown a piece of land near Hyderabad stating that they are going to purchase the land for the project. Subsequently, there was no communication between the defacto-complainant and the Directors and despite several attempts, the Directors did not attend his calls and to avoid meeting him. Apprehending some misconduct by the Directors, the defacto-complainant had sent his resignation on 27.09.2013. However, he did not receive any reply. Further, since he was at Chennai, he was not aware of what was happening at Hyderabad. The defacto-complainant had not signed any Board Resolution or participated in the day-today functioning of the Company. On 14.07.2018, the defacto-complainant was shocked to receive the information that things were not right in M/s BKR Energy Pvt Ltd and thereby had started his own investigation and found that a forged letter dated 08.08.2017 with forged signature was uploaded in the R.O.C website as if the defacto-complainant had resigned from the Company, thereby, the defacto-complainant had sent a copy of the alleged resignation letter dated 08.08.2017 downloaded from ROC to M/s Forensic & Biometric Investigation Services, Chennai and Forensic expert. He was shocked to learn from the report that his signature was forged. The defacto-complainant had resigned with effect from 27.09.2013, whereas, in their records, it was shown as if the defacto-complainant had resigned on 08.08.2017, thereby the complaint had been given against the Directors for having committed the acts of cheating, forgery and defrauding him of Rs.36.5 lakhs.

3.The learned counsel would further submit that he is employed in the Horticulture Department of Telangana Government and other than that his sister Ms.Ammani Kavitha, being one of the Directors of M/s BKR Energy Pvt Ltd, he has no connection whatsoever with the said Company. He would submit that on a complaint given by one Kannam Saibaba, a case in Cr.No.156 of 2016 was registered by Hyderabad City Police Team-IX, CCS, DD for the offence punishable under Sections 420, 409, 467 and 471 read with 34 IPC against the defacto-complainant/intervenor in this case and three others and the defacto-complainant has been arrayed as A.2. The Hyderabad City Police, after completing the investigation, have filed Charge Sheet in Charge Sheet No.82/2018. He would submit that in order to settle the dispute with Ammani Kavitha, the defacto-complainant has falsely preferred the complaint before the respondent police.

4. Admittedly, as per the defact complainant, the amounts were invested during the year 2013 and if at all his statement is true, he would have taken steps to recover the amount invested, whereas, only after registration of the case by Hyderabad Police and after filing of the Final Report, the present complaint has been given by the defacto-complainant against the petitioner. He would further submit that since the petitioner is a Government servant, there is no possibility that he would abscond or escape from the clutches of Law. He would further submit that the entire case is borne out by

records and custodial interrogation of the petitioner is not required.

5. The learned counsel for the defacto-complainant would submit that the defacto-complainant was induced and was also made to invest a sum of Rs.36,50,000/-, out of which, Rs.25,00,000/- was paid in cash and the balance amount was paid through Bank. He would further submit that the petitioner is the main man behind the entire transaction and his sister had been used as Benami in all the transactions. The petitioner had come to Chennai and induced the defacto-complainant and only believing him that since he was working in the Government, the defacto-complainant has invested huge amounts apart from investing the amounts, now the defacto-complainant has been unnecessarily dragged into a criminal case.

6. The learned Additional Public Prosecutor would submit that the petitioner induced the defacto-complainant and made him to pay a sum of Rs.25,00,000/- in cash and the balance amount of Rs.10,00,000/- through Bank. He would further submit that that the petitioner is a Government Servant, working in Horticultural Department in Telangana District and investigation is pending.

7. Taking into consideration the nature of allegations in the First Information Report and the fact that the entire case is borne out of records, this Court is of the view that this is a fit case to grant anticipatory bail to the petitioner.

8. 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 XVIII Metropolitan Magistrate Court, Saidapet, Chennai on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties, of which, one should be Government Surety each for a like sum to the satisfaction of the learned Magistrate concerned 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 stay at Chennai and report before the respondent police daily at 10.30 a.m. and 5.30 p.m until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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].**

[**f**] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
24/07/2019

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 METROPOLITAN MAGISTRATE COURT NO.XVIII,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TEYNAMPET - CRIME,
GREATER CHENNAI.

+1CC to M/S.T.SAI KRISHNAN Advocate on payment of necessary charges SR NO.15300

+1CC to M/S.K.MOHANAMURALI Advocate on payment of necessary charges SR NO.15280

CRL OP.12832/2019
& CRL.MP.7065/2019

Date :24/07/2019

MK:29/07/2019