



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

Monday, the Twenty Fourth day of June Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.6805 of 2019

RAJKUMAR

... PETITIONER / ACCUSED NO.1

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
OTHAKKADAI POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.114/2019)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.R.ANAND, Advocate
for MR.R.RAJESH, Advocate

For Respondent : MR.V.NEELAKANDAN, Additional Public Prosecutor

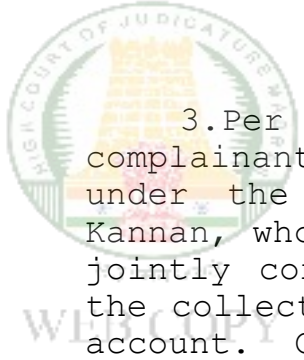
For Intervener : MR.M.C.SWAMY, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 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 406, 409, 420, 120(b), 468 and 471 of IPC in Crime No.114 of 2019, seeks anticipatory bail.

2.The learned counsel appearing for the petitioner has submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that even though the incident had happened in the year 2016, the complaint has been given after 3 years. He further submitted that already, this Court has granted anticipatory bail to A-3 in Crl.O.P.(MD).No.6528 of 2019 dated 13.04.2019. The learned counsel for the petitioner further submitted that even though the petitioner has denied the allegations made in the F.I.R against him, in order to show his bonafide, the petitioner is prepared to deposit a sum of Rs.3,00,000/- to the credit of crime number, without affecting his right to defend the case. Hence, he prayed for grant of anticipatory bail to the petitioner.



3. Per contra, the learned counsel for the intervenor/defacto complainant has submitted that the petitioner/accused was working under the defacto complainant as Local Manager along with one Kannan, who was working as Technician/Sales Executive. Both of them jointly conspired and manipulated the accounts and misappropriated the collection amount, without remitting the same to Company's Bank account. Originally, a complaint was lodged with the Superintendent of Police, Madurai on 07.11.2016 itself. In turn, the Superintendent of Police, Madurai forwarded the said complaint to Othakkadai Police and a CSR number was also assigned. Since the police did not take any action, the said CSR was allowed to be lapsed. Thereafter, the defacto complainant approached this Court by way of a petition for registering an F.I.R. In the said petition, this Court directed the complainant to approach the concerned Magistrate under Section 156 (3) Cr.P.C. Subsequently, on the directions of the learned Judicial Magistrate, Melur only, this complaint came to be registered, with great difficulty. According to the defacto complainant, they have initiated action against the petitioner/accused in the year 2016 itself. Hence, he prayed for dismissal of this petition.

4. The learned Additional Public Prosecutor appearing for the respondent has adopted the arguments advanced by the learned counsel for the intervenor. Further, he opposed this petition, as investigation is pending. However, he fairly conceded that the petitioner has no previous case.

5. Taking into consideration of the fact that the police has closed the earlier complaint dated 07.11.2016 and also the fact that the defacto complainant has not produced the Accounts before the respondent Police and also the fact that already this Court has granted anticipatory bail to A-3 and also the fact that the petitioner is ready to deposit a sum of Rs.3,00,000/- to the credit of crime number, without affecting his right, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Melur, Madurai District 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] The petitioner shall deposit a sum of Rs. 3,00,000/- to the credit of crime No.114/2019 on the file of the Inspector of Police, Othakkadai Police Station, Madurai District;

[b] if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.



[c] the petitioner shall report before the respondent Police, daily at 10.30 a.m for a period of three weeks and thereafter, as and when required for the 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
24/06/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE,
MELUR, MADURAI DISTRICT.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
OTHAKKADAI POLICE STATION,
MADURAI DISTRICT.

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

+1. CC to M/S.R.RAJESH, Advocate SR.No. 10385
+1. C.C. to M/S.M.C.SWAMY Advocate SR.No. 10487

ORDER
IN
CRL OP(MD) No.6805 of 2019
Date :24/06/2019