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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.9098 of 2019

1.Johnson @ Rajasekar Johnson sathiya selvaraj,
2.Partheeban @ Parthiban
3.Muruganantham, ... Petitioner/Accused Nos.9 to 11
Vs

The State
Rep through the Inspector of Police,
District Crime Branch (DCB Sivagangai),
Sivagangai District.
Crime No.19 of 2019. ... Respondent/Complainant

For Petitioners : Mr.Ajmal Khan Senior Counsel for
M/s.S.V.Pravinrathinam,
Advocate.

For Respondent : Mrs.M.Ananthadevi,
Government Advocate (Crl.Side)

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

PRAYER :-

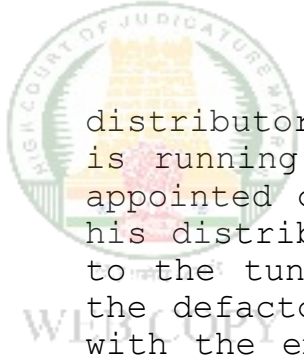
For Anticipatory Bail in Crime No.19 of 2019 on the file of the
respondent Police.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the
respondent police for the offences punishable under Sections 403,
406, 477 A, 420, 294 (b), 506 (ii) and 120 B of IPC, in Crime
No.19 of 2019, seek anticipatory bail.

2. Heard both sides.

3.The learned Senior counsel appearing for the petitioners has
submitted that as per the FIR, the defacto complainant is the



distributor of Hindustan Unilever Limited for Karaikudi area and he is running business in the name of M/s.ACCE. In the year 2015, he appointed one Mr.Shanmugasundaram/A1 as his manager for maintaining his distributorship business in Karaikudi and he invested an amount to the tune of Rs.1.31 crores in the said business. During audit, the defacto complainant was found that Mr.Shanmugasundaram/A1 along with the employees/A2 to A8 of his firm, misappropriated his funds to the tune of Rs.2.82 crores, which is inclusive of his total investment amount of Rs.1.31 crores. He further submitted that the petitioners are not working under the defacto complainant, but they are the employees of the Hindustan Unilever Limited and that being so, they are not at all concerned with the alleged misappropriation took place in the Firm of the defacto complainant and therefore he prayed to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent has submitted that the defacto complainant is the distributor of Hindustan Unilever Limited for Karaikudi area and he is running business in the name of M/s.ACCE. In the year 2015, he appointed one Mr.Shanmugasundaram/A1 as his manager for maintaining his distributorship business in Karaikudi. During the review by the Company, it was noticed that there was a significant drop in the sales, and hence, she opposed this petition.

5.Taking into consideration of the fact that the defacto complainant is the distributor of the Hindustan Unilever Limited and that the petitioners are not working under the defacto complainant and on the contrary they are employees of the Hindustan Unilever Limited and that it is not specifically stated in the FIR as to how the petitioner are responsible for the alleged misappropriation took place in the defacto complainant's Firm, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate II, Sivagangai District, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners are working at Chennai, they shall report before the respondent police as and when required before the respondent police for interrogation.

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

(iii) the petitioners shall not tamper with evidence or witness



either during investigation or trial.

(iv) the petitioners shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
01/07/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE No. II,
SIVAGANGAI DISTRICT

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

3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH (DCB SIVAGANGAI),
SIVAGANGAI DISTRICT.

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

+1 CC to Mr.V.NIRMAL KUMAR, Advocate (SR-10868[I] dated
02/07/2019)

ORDER
IN
CRL OP(MD) No.9098 of 2019
Date :01/07/2019

dss

AE/JC/SAR-III (10.07.2019) 4P 6C