



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

Tuesday, the Twenty Ninth day of January Two Thousand Nineteen

PRESENT

**The Hon`ble Mr.Justice M.NIRMAL KUMAR**

**CRL OP(MD) No.21385 of 2018**

1.A.SAHAYA MACLEAN AUGUSTINE ROY @ MAKLIN RAY,

2 A.DON RINALDO ROY @ DAAN RENALDA RAI,

... PETITIONERS / ACCUSED Nos.2 & 3

Vs

THE INSPECTOR OF POLICE,  
DISTRICT CRIME BRANCH,  
NAGERCOIL, KANYAKUMARI DISTRICT.

(CRIME NO.33 OF 2018) ... RESPONDENT / COMPLAINANT

For Petitioners : MR.I.PINAYGASH Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,  
Govt. Advocate ( Crl. Side)

For Intervenor : MR.K.P.NARAYANAKUMAR, Advocate

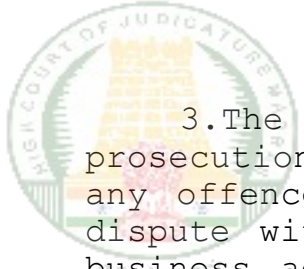
: MR.S.MADHAVAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioners apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 406, 120(b) and 506 (i) of I.P.C., in Crime No.33 of 2018, seek anticipatory bail.

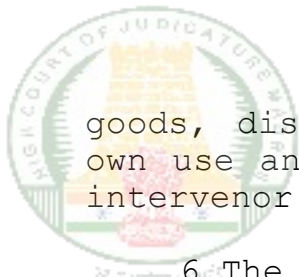
2.The case of the prosecution is that the defacto complainant, one Ramesh filed a case in Cr.M.P.No.2382 of 2018 before the learned Judicial Magistrate No.1, Nagercoil to register a case against the petitioners for breach of contract and failure to pay the business transaction amount and agreement in respect of the business in transportation of cashewnuts from Tanzania to Tamil Nadu and thereby on 22.10.2018 the Court below disposed the case as prayed for. Hence a case has been registered against the petitioners. Hence, the petitioners/accused Nos.2 and 3 are apprehending arrest for the said



3.The learned counsel for the petitioners would submit that the prosecution case is entirely false. The petitioners did not commit any offence as alleged by the prosecution and it is purely civil dispute with regard to business transaction. Moreover, as per the business agreement made between the first accused and the defacto complainant and all dispute in connection with the contract or its execution thereof shall be settled amicably by negotiation, in case no settlement is arrived, the case shall be tried under Arbitration but the defacto complainant obtained the order by suppressing all the facts. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned counsel for the defacto complainant would submit that after completion of graduation he started his independent business under the name and style of "M.P.N.Trading" which deals with cashewnut business and the financial support has been contributed by the Bank by granting loans and he is paying compound interest for the amount borrowed. The defacto complainant having his financial transaction through Axis Bank, Nagercoil, the repeated approached of him, for banking activities to mention Bank developed acquaintance with the fourth accused, who is the Assistant Manager of Axis Bank. The fourth accused instigated the defacto complainant to develop his business activities with the help of A1 to A3 and also informed that said A1 to A3 are having good business transaction with the foreign Countries and through them, cashew nut can be imported. He would further submit that A1 to A3 labeling themselves as Directors of "Helios Commerce Pvt. Ltd" and carried on their business activities all over the world. He would also submit that the participation of these petitioners can only be traced at the time of personal interrogation and also it is necessary to recover the money from the accused and the intervenor is paying the loan amount with interest to the Bank. Hence, these petitioners are not entitled to obtain anticipatory bail.

5.The learned counsel for the intervenor/M.Mahendran would submit that the petitioners along with one Augustine Roy and Baskar running a Company namely Helios Commerce Private Limited and they are Directors of the Company. The intervenor running a business in the name and style of 'Aroma Banana', he export banana and coconut to Gulf countries. He would further submit that from the date of inception the accused persons intended to deceive the petitioner in business transaction and each step was with a clear intention to cheat him and squat his wealth. The petitioners/accused persons are also having similar antecedent like this, presently an enquiry is going on at District Crime Branch, Theni on the complaint given by one Mahendran for cheating of Rs.18.72 Lakhs in respect of the so called fake Contract. The contract was to purchase bananas, hence it is crystal clear that by adopting dubious method in one way or other the petitioners are manipulating the document. He would also submit that the petitioners cheated many persons by giving false assurances and induced many persons to invest huge money in the guise of export, but instead of paying the money for the value of



goods, dishonestly misappropriated and converts the same for their own use and by which committed breach of trust and cheating. This intervenor is one of the persons cheated by the petitioners.

6.The learned Government Advocate (Criminal Side) for the respondent would submit that based on a complaint received, the F.I.R has been received by the respondent police and investigation has commenced. All the petitioners are absconding and they are unable to be secured. The investigation, reveals that the petitioners had been indulged in offences of similar in nature and cheated several other persons, detailed enquiry has to be conducted and hence, custodial interrogation of the petitioners is must in this case.

7.Considering the facts of the case and the submissions by learned counsels, this Court is not inclined to grant anticipatory bail to the petitioners. Hence, this Criminal Original Petition is dismissed.

sd/-  
29/01/2019

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

TO

1 THE INSPECTOR OF POLICE,  
DISTRICT CRIME BRANCH,  
NAGERCOIL, KANYAKUMARI DISTRICT.

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

1 CC to Mr.I.PINAYGASH, Advocate ( SR-1703[I] dated 29/01/2019 )

+1 CC to Mr.K.P.NARAYANAKUMAR, Advocate ( SR-1895[I] dated  
31/01/2019 )

+1cc to MR.S.MADHAVAN, Advocate in SR.No. 1973

ORDER  
IN  
CRL OP(MD) No.21385 of 2018  
Date :29/01/2019