

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5813 of 2020

1.Pushpa
2.Suganya
3.Abinaya
4.Dinesh

... Petitioners

Vs.

The State Rep. by
The Inspector of Police
Kaveripattinam Police Station,
Krishnagiri District.
(Crime No.88 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail, in the event of their arrest by the respondent pending investigation in Crime No.88 of 2020 on the file of the respondent police.

For Petitioners : Mr.M.Sasikumar

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under sections 147, 294 (b), 506(ii), 420 and 408 IPC in Crime No.88 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant one Kanaiyan is that the first petitioner viz., Pushba's husband, 2nd to 4th petitioners' father namely Kumar, was working as Assistant Secretary in Saparathi Primary Co-operative Society, Krishnagiri District and Syed Kadhar, was the Secretary in charge of the same Society. The allegation is that both of them have misappropriated and cheated the aforesaid society cash to the tune of Rs.1,48,69,621/- by way of fake documents and bank challans during the period from 01.04.2014 to 31.03.2019. Consequent to the detection of misappropriation of the society fund, Secretary Kumar and Secretary in charge Syed Kadhar were placed under suspension from Saparathi Primary Co-operative Society. Thereafter, when enquiry was conducted regarding the misappropriation, both of them have admitted the

commission of misappropriation and they also stated that they would settle the misappropriated amount within a weeks time. The first Petitioner's husband Kumar had paid cash of Rs.2,50,000/- on 02.06.2019 while Syed Kadhar had remitted cash of Rs.10,45,000/-. Both of them are yet to remit the balance amount of Rs.1,35,65,621/- and it is pending for a long time.

3. Tr.S.S.Kannaan, President of Saparathi Primary Co-operative Society, Krishagiri District and members have advised the aforesaid Kumar and Syed Kadhar through cell phone and by visiting their houses on so many occasions, to settle the balance amount. However, both of them have not settled the balance amount. This being so, on 29.12.2019 at about 7.00 hrs, Tr.S.S.Kannaian, President of Saparathi Primary Co-Operative Society, Krishnagiri District and members went to Kumar's house in order to advice him to settle the balance amount. Instead of hearing the advice of the President and other members, Kumar had stated that he would not settle the amount and nobody should make calls or visit his house demanding money. Further, Kumar and his wife Pushba, daughters Suganya, Abinaya and his son Dinesh, viz., the petitioners 1 to 4 herein have scolded the President and other members in filthy language and threatened with iron rods and wooden log with dire consequences. Consequently, Tr.S.S.Kannaian, President of Saparathi Primary Co-operative Society, Krishnagiri District and members have preferred a written complaint at Kaveripattinam Police Station which was assigned CSR No.101 of 2020. After verifying the contents of the complaint, the Sub Inspector of Police, Kaveripattinam Police Station has registered a case in Kaveripattinam PS in Crime No.88 of 2020 for the above said offences.

4. The learned counsel for the petitioners would submit that the petitioners are respectively the wife and children of the main accused Kumar. The allegations against the main accused is that he has misappropriated huge amounts from the society. The allegation against these petitioners is that A1 had agreed to repay the amount and on 29.01.2019. When the defacto complainant had come to the house of the petitioners', they are said to have abused the defacto complainant with filthy language and threatened him with dire consequences. He would submit that the allegations against the petitioners are specifically made so as to implicate them in this case to recover the amount by putting pressure on them. He would submit that the petitioners are only family members of A1 and they have nothing to do with the offence committed by A1. He would also submit that A1 was arrested on 20.03.2020 and remanded to Judicial Custody by the Judicial Magistrate-I, Krishnakiri and later released on bail on 23.03.2020. He would submit that the petitioners are prepared to abide by any strengent conditions and hence, he prays for grant of anticipatory bail to the petitioners.

5. The respondent has filed a counter. The learned Additional Public Prosecutor would vehemently opposed stating that A1 who was working as Assistant Secretaty in Saparathi Primary Co-operative Society, Krishagiri District, along with A2, Syed Kadhar, Secretary of the Society, had committed criminal breach of trust and by creating fake documents and challans, misappropriated and cheated the society

fund to the tune of Rs.1,48,69,621/-. The first petitioners husband/A1 in this case admitted his offence following which, he had repaid a sum of Rs.2,50,000/- on 02.06.2019 and the other accused had remitted cash of Rs.10,45,000/- and they are yet to repay the balance amount of Rs.1,35,65,621/- to the Society and that they had also assured to settle the balance amount. But, when the defacto complainant on 29.12.2019 had gone to the house of the first accused, the first accused and other accused/A2 to A5, who are respectively wife and children of A1, have abused the defacto complainant and threatened him with dire consequences. He would submit that investigation is pending.

6. Taking into consideration the facts of the case and considering the allegations against the petitioners that they have abused the defacto complainant and threatened him, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of his arrest by the respondent police or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate-I, Krishnagiri, on condition that the petitioners shall execute a separate 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 petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

[d] the petitioners 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 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].

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

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
20/07/2020

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.I, KRISHNAGIRI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KAVERIPATTINAM POLICE STATION,
KRISHNAGIRI DISTRICT,

CC to M/S.M.SASIKUMAR Advocate on payment of necessary charges

CRL OP.5813/2020

Date :20/07/2020

RD 24/08/2020

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