IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.20 20

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.Nos.5854 & 5863 of 2020

and

Crl.MP.Nos.4997 and 4998 of 2020

1. R.Elangovan
2.E.Arun Pandiyan ... Petitioners in Crl.O.P.No.5854

3.S.Sudharson Babu ... Petitioner in Crl.O.P.No.5863

Vs.

State Represented by,
The Inspector of Police,
CCB-I,The Commissioner of Police,
Commissioner Office,
Vepary, Chennai-7.
Crime No.20 of 2020. ...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.20 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.K.Gangadaran

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

For Intervenor : Mr.A.Selvendran

COMMON ORDER

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 408,420,465,468 and 477(A) of IPC, in Crime No.20 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant / the Chief Manager, Cholamandalam is that the petitioners colluded with the other accused persons and misappropriated a sum of Rs.75 lakhs belonging to the company by using fraudulent accounts.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. According to the 1st petitioner, he is running a travel agency in the name of 'Elango Travels' and he gives car for rent on daily and monthly basis to the defacto complainant. For such service rendered to the complainant company, they used to transfer money in the account maintained in the name of travel agency. He would further submit that A1, A2 and A4 were arrested and they were enlarged on bail. The petitioner in Crl.O.P.No.5854 of 2020 is arrayed as 3rd parties and the petitioners in Crl.O.P.No.5863 of 2020 is A3. As far as the petitioners in Crl.O.P.No.5854 of 2020 are concerned they are the father and son and that they were asked to send a Fortuner car to the Managing Director of the Defacto complainant and they were paid money by the Company. He would submit that an amount of Rs.44 lakhs was transferred to the account of the 1st petitioner Ilangovan. Subsequently, on instruction of A1 lavanya, the 1st petitioner Ilangovan had repaid the amount of Rs.33 lakhs to the account of the Managing Director Mr.Takashikishi. The outstanding amount in the account of the petitioners was Rs.11 lakhs. He would further submit that out of Rs.11 lakhs, the 1st petitioner in Crl.O.P.No.5854 of 2020 has already repaid a part amount to A1's account and both the petitioners are prepared to deposit an amount of Rs.1 lakh each to the account of the defacto complainant. He would further submit that the petitioner in Crl.O.P.No.5863 of 2020, though an employee of the defacto complainant, was not connected to the Accounts Department. However, a sum of Rs.3 lakhs has been deposited to the account of A1 Lavanya and without prejudice to his contention, the petitioner in Crl.O.P.No.5863 of 2020, is prepared to deposit the amount of Rs.5 lakhs to the credit of the Crime Number. The learned counsel would further submit that the petitioners were even prepared to deposit the amounts directly to the account of the defacto complainant, however, since, the account number has not been furnished by the learned counsel for the Intervenor, they are now ready to deposit the same to the credit of Crime Number.

4.The learned Additional Public Prosecutor would submit that in Crl.O.P.No.5863 of 2020 petitioner is arrayed as A3 and he is the employee of the defacto complainant company. The petitioners in Crl.O.P.No.5854 of 2020 are the 3rd parties. A1 Lavanya who is the Account Manager of the company colluding with the other accused who were employees of the company committed fraudulent transaction and misappropriated an amount of Rs.75 lakhs belonging to the company. The said Lavanya was arrested and released on bail. As far as the petitioners are concerned, there was some transaction to these petitioners' accounts.

5. The learned counsel for the Intervenor would vehemently oppose stating that the petitioner in Crl.O.P.No.5863 of 2020 is an employee of the company and the petitioners in Crl.O.P.No.5854 of 2020 are third parties. They have in collusion with A1 Account given to the company misappropriated the company funds. Hence he would oppose to grant bail to the petitioners.

6.Taking into consideration of the facts and submissions made by the learned Counsels, and that the main accused have been arrested and released on bail and the petitioners have offered to deposit amounts, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

7.Accordingly, the petitioner/A3 shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakh only) to the credit of Crime No.20 of 2020, likewise the petitioners 1 & 2 shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) each to the credit of the same Crime No.20 of 2020 within a period of two weeks from the date on which the order copy made ready, and on such deposit, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Metropolitan Magistrate, CCB & CBCID, Egmore, 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 on every Monday at 10.30 a.m., until further orders.

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

8.With the above directions, this Criminal Original Petition is ordered. Consequently, connected miscellaneous petitions are ordered.

-sd/-
16/09/2020

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 METROPOLITAN MAGISTRATE,
CCB & CBCID, EGMORE, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CCB-1. THE COMMISSIONER OF POLICE,
COMMISSIONER OFFICE, VEPARY,
CHENNAI-7.

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

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Date :16/09/2020

RVR 05/10/2020