

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.8826 of 2020

1.Sudha

... Petitioners

2.Selvakumar

Vs.

State Rep. By

... Respondent

The Station House Officer,
District Crime Branch,
Cuddalore District.
Cr. No.10 of 2018.

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail pending investigation in Crime No.10 of 2018 on the file of the respondent police.

For Petitioner : Mr.R.John Sathyan

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on 02.06.2020 for the offence punishable under Sections 406, 420, 506 (i) and 120-B of IPC in Crime No.10 of 2018 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that a complaint was lodged by one Mr.Pavadai, wherein it is alleged that one Mr.Pannerselvam (3rd accused) approached him on 10.05.2016 and canvassed for supplying milk to the Milk Storage facility managed by him, his daughter (1st petitioner and 1st accused) and his son-in-law Selvakumar (2nd petitioner and 2nd accused). It is alleged that for four months, they promptly paid the money and thereafter, there was outstanding liable to be paid to the defacto complainant and other 70 odd agents. The defacto complainant and the other agents continued to supply milk to the petitioners till 10.08.2017. Therefore, the total outstanding amount was around Rs.32,17,194/-. It is alleged that the

defacto complainant and other agents met the petitioners on 10.09.2017 and had intimidated the petitioners/accused to pay a sum of Rs.32,17,194/-. Thereafter, the accused were absconding. Therefore, a fresh complaint was given to the Deputy Inspector General of Police, Villupuram in the month of March 2018 and the case was registered on 17.09.2018. Hence this complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are not involved in the above alleged offence and they are no way connected with the offence as alleged by the prosecution and they did not commit any offence. The learned counsel would further submit that the 1st petitioner is a housewife and she has not been involved in the day today affairs of the company and the business was managed by her father/3rd accused and the second petitioner diligently. It is pertinent to see that the milk produced from the agents were standardised and sold in packets under the brand name "Asra" in the market on credit basis as there were severe competition from big players. Even under the circumstances, the petitioners and 3rd accused paid the agents regularly and there was a liability less than Rs.10 lakhs. Further he submits that the petitioners are in judicial custody from 02.06.2020 and hence, he seeks bail for the petitioners.

4.The learned Additional Public Prosecutor would submit that the petitioners along with the 3rd accused preferred a petition for anticipatory bail in Crl.O.P.No.24993 of 2018 and the same was ordered by an order dated 31.10.2018, with a condition to pay a sum of Rs.20,00,000/- to the fit person to be appointed by the Superintendent of Police within a period of one week. Thereafter, the petitioner was directed to deposit a sum of Rs.20,00,000/- within a period of two weeks. But the petitioners did not comply with the conditions. Hence, filed a petition for Modification and Extension of time in Crl.M.P.No.16406 and 16407 of 2018 and the same was dismissed vide an order dated 06.12.2018. Thereafter, the petitioners appealed before the Hon'ble Supreme Court challenging the above said order in Special Leave Petition (criminal) Diary No.34322/2019 and the same was dismissed by an order dated 05.11.2019. Hence, he vehemently opposed for grant of bail to the petitioners.

5.Taking into consideration the nature of allegations against the petitioners in the FIR and also taking note of the fact that the petitioners are in judicial custody from 02.06.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions :

(a) The petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.5,000/- (Rupees five thousand only) before the Superintendent of the concerned prison.

(b)The petitioners are directed to deposit original title deed worth Rs.10,00,000/- stand in the name of the petitioners/relatives

authorities in the credit of Crime No.10 of 2018 and the petitioners are also directed to deposit a sum of Rs.5,00,000/- to the credit of Crime No.10 of 2018 while executing the sureties. On such deposit of Rs.5,00,000/-, the concerned Court is directed to disburse the amount of Rs.5,00,000/- to the suppliers of Milk on a prorata basis.

(b) each of the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which, the bail granted by this Court shall stand dismissed automatically.

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(d) the petitioners shall report before the respondent police as and when required for interrogation.

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

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(g) 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]**.

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

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

-sd/-

17/06/2020

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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
<https://hcservices.ecourts.gov.in/hcservices/>
THIRUVALLUR.

2 THE JUDICIAL MAGISTRATE NO.II,
PANRUTI.

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

4 THE STATION HOUSE OFFICER,
DISTRICT CRIME BRANCH,
CUDDALORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
WOMEN WING, CENTRAL PRISON, CUDDALORE.

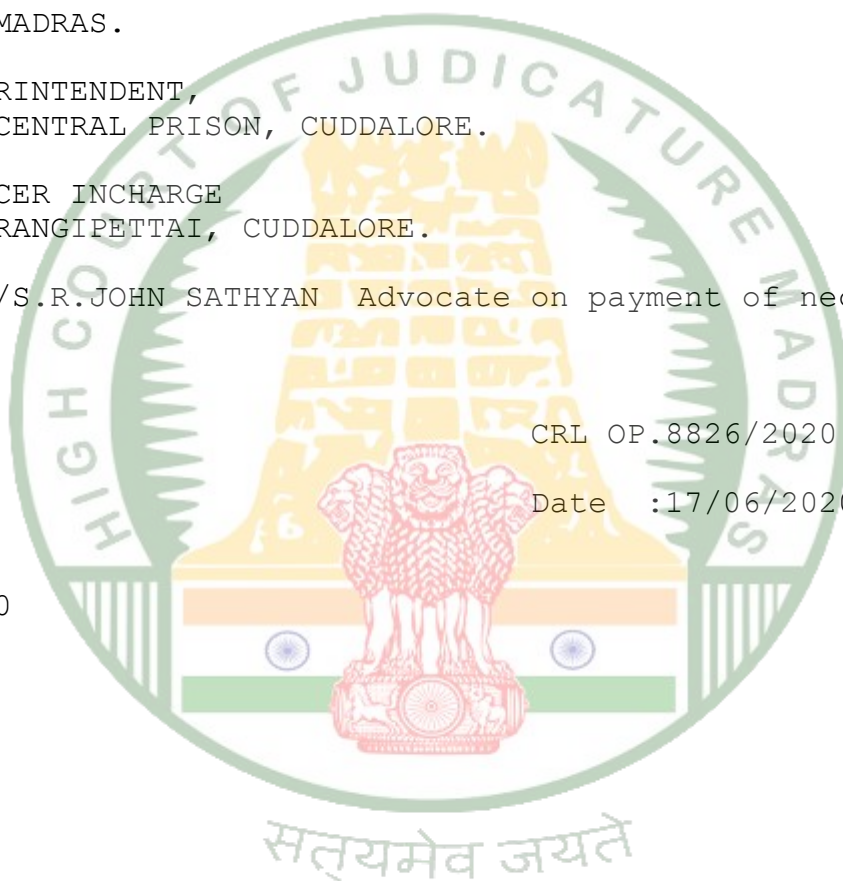
7 THE OFFICER INCHARGE
SUB-JAIL, PARANGIPETTAI, CUDDALORE.

CC to M/S.R.JOHN SATHYAN Advocate on payment of necessary
charges

CRL OP.8826/2020

Date :17/06/2020

TA-08/10/2020



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