



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/03/2020

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PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) . No.2853 of 2020

A.Nagarathinam

... Petitioner/Accused
Rank not Known

Vs

State Rep.by
The Inspector of Police,
Austinpatti Police Station,
Madurai District.
(Crime No.46 of 2020)

... Respondent/Complainant

K.R.Gopalakrishnan

... Intervening Petitioner/
Defacto Complainant/ Defacto Complainant

For Petitioner : Mr.P.Senguttuarasan,Advocate.
For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)
For Intervenor : Mr.N.Saravanan, advocate

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

PRAYER :-

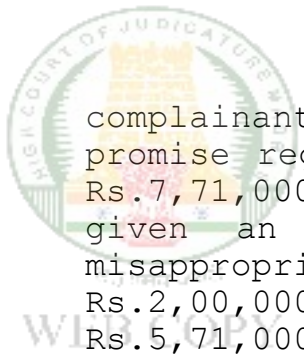
For Anticipatory Bail in Crime No.46 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the respondent police for the offences punishable under sections 406 and 408 of I.P.C., in Crime No. 46 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl. Side) appearing for the respondent and the learned counsel appearing for the intervenor/de-facto complainant.

3.The sum and substance of the complaint against the petitioner is that while he was working as the Manager of the de-facto



complainant firm has collected money from the customers making false promise regarding the insurance and misappropriated to the tune of Rs.7,71,000/-. When the same was confronted, the petitioner has given an undertaking on 22.01.2020 that he will repay the misappropriated money and as a first installment, he paid Rs.2,00,000/- on 27.01.2020 and also promised to pay the balance of Rs.5,71,000/- in due course. Since he failed to keep off this promise, the de-facto complainant has given a complaint to the Inspector of Police, Austinpatti Police Station and it was taken on file registering FIR in Crime No.46 of 2020, for the offences under Sections 406 and 408 of IPC.

4.The learned counsel for the petitioner would submit that the petitioner has adjusted the money collected from the customers only to the tune of Rs.2,00,000/- and the same has been paid. The promise that he will repay the balance money and the undertaking given by him on 22.02.2020 was under force. Contrarily, the petitioner has already approached the Labour Court for settlement of Provident Fund and other benefits, which he is entitled to get from the de-facto complainant. Only to counter-blast the petition filed before the Labour Court, the present complaint has been lodged.

5.The de-facto complainant has filed intervening petition and the same has been taken on file by this Court in Crl.M.P.(MD)No.1722 of 2020. In the intervening petition, the de-facto complainant would submit that the petitioner herein till 2018 had a very clean track record. Only thereafter, when the accounts were audited on the eve of his relieving, they found that the petitioner has made false promise to the customers and collected insurance premium and not remitted. It is contended that during audit they came to know that he has collected money from the customers and used for personal uses. In this regard, it was found that the total sum of Rs.7,71,000/- was misappropriated by the petitioner herein. When the petitioner and his family members accepted the misappropriation and pleaded not to take any action and promised to return the money, the management accepted the same and based on the undertaking given by the petitioner on 22.01.2020, the petitioner also paid amount of Rs.2,00,000/- on 27.01.2020. Unless and until, the petitioner remits the balance amount, anticipatory bail should not be granted

6.Considering the rival submissions, this Court is of the view that the dispute is regarding the discrepancy in the account and this has to be probed and investigated and the petitioner herein is no more in service with the de-facto complainant. The accounts are also in possession of the de-facto complainant. Hence, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, to the Special Magistrate, Thirumangalam, on condition that the



petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) 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:

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[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[b] the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the credit of Crime No.46 of 2020 before the learned Judicial Magistrate, Thirumangalam, without prejudice his defence before the trial Court;

[c] the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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

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

sd/-

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

TO

1. THE JUDICIAL MAGISTRATE, THIRUMANGALAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.



3. THE INSPECTOR OF POLICE,
AUSTINPATTI POLICE STATION, MADURAI DISTRICT.

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

+1 CC to M/s.P.SENGUTTARASAN, Advocate (SR-4730[I] dated 04/03/2020
)

ORDER

IN

CRL OP(MD) No.2853 of 2020

Date :03/03/2020

MS/PN/SAR-3/09.03.2020/4P.6C