BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/09/2020

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD). No.8358 of 2020

K.E.Gnanavel Raja ... Petitioner

Vs

The State rep. by
1. The Deputy Superintendent of Police,
   Ramanathapuram, Tamil Nadu 623 504.
   Crime No.347 of 2020.

2. The Inspector of Police,
   Bazaar Police Station,
   Ramanathapuram. ... Respondents

Pradeep Chakravarthi ... Petitioner/victim
(in CRL MP(MD) No.4150/2020
in CRL OP(MD) No.8358/2020)

For Petitioner : Mr.AR.L.Sundareshan
Senior Counsel for
M/s.Vijayan Subramanian.

For Respondents: Mr.K.Suyambulinga Bharathi,
Government Advocate (Criminal Side)

For Intervener : Mr.A.Kannan, Advocate
(in CRL MP(MD) No.4150/2020)

For Intervener : No appearance
(in CRL MP(MD) No.4278/2020)

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

PRAYER :-

For Anticipatory Bail in Crime No.347 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

Totally there are nine accused in this case. The petitioner, who is arrayed as A-6, apprehending arrest at the hands of the respondent police for the offences punishable under Section 406, 420, 294(b) and 506(2) of I.P.C., in Crime No.347 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that, A-1 to A-3 in this case are the partners of one "Bullion Fintech LLB" and collected huge amounts of deposits from various depositors on a false promise that they will give lucrative interest and also return the deposit amount on maturity. However, they neither paid the interest nor repaid the deposited amount. Based on the complaint given by the depositors, a criminal case has been registered against A-1 to A-3 for the above said offences. Thereafter, all the accused were arrested. Based on a confession of A-1/Neethimani in this case, the petitioner has been implicated as 6th accused.

3.According to the prosecution, A-1 is engaged in cinema distribution invested huge amount of money collected from the depositors in distribution of movies, produced by A-4 to A-6. Sofaras this petitioner is concerned, he has produced a movie called "Mahamuni" and entered into an agreement on 27.05.2019 with A-1 for outright theatrical distribution and exhibition rights of the above said film in Tamil Nadu and Pondicherry and A-1 agreed to pay a sum of Rs.6,25,00,000/- to the petitioner, who is a producer of the movie and also paid a sum of Rs.2,00,00,000/- (Rupees Two Crores Only) towards advance.

4.The learned Senior counsel appearing for the petitioner would submit that the petitioner has nothing to do with the amount collected by A-1 to A-3. Admittedly, the petitioner is only a producer of a movie and A-1 in this case is a distributor, there was an agreement between the parties. Pursuant to the distribution agreement, A-1 has paid a sum of Rs.2.25 crores to the petitioner. Thereafter, the distribution rights was also given to one Tarun Pictures, where, A-1 is a partner, subsequently, A-1 also released the movie and collected money and earned huge profit in it. It is purely a business transaction between the petitioner and A-1 and the petitioner is not involved in the collection of deposit. Now, only in order to harass the petitioner, he has been implicated as accused in the above said case.

5.The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that A-1 to A-3 have collected huge amounts from various depositors and cheated them, based on the complaint given by the depositors, the crime has been registered. The investigation reveals that A-1 in this case, is one of the partners of the finance company, has deposited huge amount in film distribution, and it is only depositors' money, which was entrusted with the petitioner by A-1. He would further submit that now the investigation has been transferred to Economic Offence Wing for further investigation, the investigation is yet to be completed and at this stage, custodial interrogation of the petitioner is also required. Hence, he opposed to grant anticipatory bail to the petitioner.

6.Mr.A.Kannan, learned counsel appearing for the intervenor submitted that after collecting huge amounts from the depositors, A-1 deposited the money in various film distribution including in the movie produced by the petitioner. The money belongs to a depositors and the petitioner along with other accused, cheated them. Hence, he opposed the petitioner's anticipatory bail application.

7.I carefully consider the rival submissions and perused the materials placed on record.

8.The allegation is that A-1 to A-3 are running a finance company and collected huge amount from various depositors. One of the partners of the finance company, namely, A-1 invested money in cinema distribution. According to the learned senior counsel for the petitioner, the petitioner has produced a movie called "Mahamuni" and A-1, who is a partner of one Tarun Pictures, entered into an agreement for outright theatrical distribution rights, pursuant to the agreement, the petitioner received Rs.2.25 crores from A-1. Thereafter A-1 also released the film and realized the amount. According to the petitioner, it is purely a business transaction between the petitioner and A-1. Subsequently, A-1 release the movie and realized the money paid to the petitioner also earned profit and no offence is made out against him much less for an offence under Sections 406 and 420 of IPC.

9.Considering the facts and circumstances of the case and also considering the fact that the money has been paid to the petitioner only for the purpose of getting cinema distribution rights, subsequently A-1 also release the movie. As rightly contended by the petitioner, there is no breach of trust, as there is no dishonest misappropriation of money and *prima facie* no offence made out under Section 406 of IPC. That apart, admittedly A-1 to A-3 only collected deposits and the petitioner never involved in it. The only allegation is that deposit money has been used by A-1 for film distributions, hence, it cannot be held that the petitioner has cheated the depositors to attract the offence under Section 420 of IPC. Considering the above circumstances, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

10.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Ramanathapuram, 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:

(a) the petitioner 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 petitioner shall report before the respondent police as and when required for interrogation;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner 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 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];*** and;

(f) if the petitioner/accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
07/09/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE,
   RAMANATHAPURAM.

2. -DO- THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
   RAMANATHAPURAM DISTRICT.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
   RAMANATHAPURAM,
   TAMIL NADU-623 504.

4. THE INSPECTOR OF POLICE,
   BAZAAR POLICE STATION,
   RAMANTHAPURAM.

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

+1CCto M/s.VIJAYAN SUBRAMANIAN,Advocate(SR-6287[I] dated 08/09/2020)

ORDER
IN
CRL OP(MD) No.8358 of 2020
Date :07/09/2020

SJI
SRS/ JC/ SAR-II/ 14.09.2020/ 5P/7C