BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/10/2020

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD).No.11103 of 2020

S.Balasubramanian ... Petitioner/Accused No.1

Vs

State Rep. by
The Inspector of Police,
Silaiman Police Station,
Madurai District.
(Crime No.1154 of 2020) ...Respondent/Complainant

Shahul Hameed ... Intervening Petitioner/
Proposed 2nd Respondent/De-facto Complainant

For Petitioner : Mr.Veera Kathiravan, Senior Counsel
for M/s.Veera Associates

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervenor : Mr.M.Lingadurai, Advocate

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

PRAYER :-
For Anticipatory Bail in Crime No.1154 of 2020 on the file of the Respondent.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at the hands of the respondent police for the offence punishable under sections 406, 468, 471, 379 and 420 IPC, in Crime No.1154 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the Managing Director of Kasim Textiles(P) Ltd.,in which, the petitioner was worked as Civil Engineer from the year 2005 to 2011. He also worked as PRO from 2011 to 2020. During his employment in connivance with other accused namely, Sakthiganesh, who was working as a Cashier of the Company, had involved in various illegal activities and swindled the Company's amount for a sum of Rs.1 crore 59 lakhs from the defacto complainant's Company and illegally transferred the same from the Company account to his personal account and also created various bogus vouchers. Hence the complaint.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

4.The learned Senior Counsel appearing for the petitioner submitted that the petitioner is arrayed as A1 and he was working as a Civil Engineer from the year 2005 to 2011 and subsequently promoted as PRO from 2011 to 2020. Due to some difference of opinion with Management, the petitioner had resigned his job on 27.01.2020. When the petitioner demanded his provident fund, gratuity and other benefits, which will come around nearly Rs.7,00,000/-, the false case came to be lodged against the petitioner and one Sakthiganesh, who was arrayed as A2. Therefore, the petitioner is nothing to do with the allegation as alleged by the prosecution. He further submitted that he has no account in the City Union Bank as alleged in the FIR. Further the learned Senior counsel appearing for the petitioner submitted that to show his bonafide the petitioner is ready and willing to deposit the original title deed for substantial amount.

5.The learned counsel appearing for the intervener/defacto complainant submitted that the defacto complainant is the Managing Director of Kasim Textiles Mills (P) Ltd and he is running the Mill from the year 1992 and the family members are the share holders of the above said Mill. In that Mill A1 was working as Civil Engineer from the year 2005-2001. Thereafter, A1 was working as Human Resources Officer of the Mill from 2011-2020. A2 in this case was working as Quality Control Inspector of the Mill from the year 2005-2014. Thereafter, the accused No.2 was working as General Manager of the Mill from the year 2014-2020. During this period both the accused conspired together and created bogus bills and they misappropriated huge amount from the Mill as follows:-

(i)By creating bogus accounts A1 misappropriated Rs.5,42,422/-. Then by way of Daily wages workers and created bogus duplicate receipt in the name of different persons and cheated Rs.3,09,080/-. Then by way of building renovation work, created duplicate bills and cheated Rs.1,86,300/-. Then by way of salary to the workers, these accused misappropriated Rs.75,266/-. Then Rs.50,524/- by way of salary to Driver Pechiyappan who is sister's husband of A1. Further without coming to the work, full month salary was misappropriated thereby cheated Rs.67,383/-.

(ii)Then both the accused misappropriated Rs.31,050/- in the name of non working workers and created bogus vouchers. Further A2 has created bogus bill and cheated Rs.9,42,288/-. Further the defacto complainant is having Solar Project at Varalotti, Kariapatti circle, Virudhunagar District. In that project the accused has cheated Rs.77,59,134/- from 24.12.2018 to 23.09.2019.

(iii)Further in the Solar project by making false entry in the daily register and cheated Rs.1,46,646/-. Further by way of commission for purchasing material he has misappropriated by huge amount and from the City Union Bank transaction. He has misappropriated Rs.18,32,078/- from the act of the said misappropriation the accused Nos.1 & 2 in this case have cheated Rs.1,19,42,171/-

iv) Further the company's Honda vehicle bearing Registration No.TN-64-B-7245 and Laptop – DELL -7560G, Solar project attendance register, expenditure register also thefted by the accused. Hence, on 27.01.2020 at about 11.00 a.m. the defacto complainant enquired the accused persons and at that time, the accused persons have threatened and refused to admit the offence. Hence, the complaint has been lodged on 08.08.2020 before the 2nd respondent police station and after enquiry FIR was registered in Crime No.1154 of 2020 under Sections 406, 468, 471, 379 and 420 IPC and the same is pending before the Judicial Magistrate Court, Madurai.

6.He further submitted that the petitioner is having so many property in and around Madurai City and he is also having possession of copy of the documents stands in the name of the petitioner and he prayed for depositing of the particular property.

7.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that there are totally two accused, in which, the petitioner is arrayed as A1. Both accused have misappropriated the amount to the tune of Rs.1 crore 57 lakhs from the defacto complainant's Company when A1 was working as a PRO of the complainant's Company. After misappropriated the said amount, they cheated the defacto complainant by transferring the amount from the defacto complainant's Company and as well as produced the false fabricated vouchers in the name of Company.

8.It is seen that there are totally two accused, in which, the petitioner is arrayed as A1 working as a PRO of the defacto complainant's Company. The petitioner misappropriated the amount to the tune of 1 crore 57 lakhs by transferring the Company account to his personal account and also produced the false fabricated and bogus vouchers. However, the learned senior counsel submitted that this petitioner is ready and willing to deposit original title deed for substantial value, which was alleged by the prosecution.

9.Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

10.Accordingly, the petitioner shall deposit the original title deed stands in the name of the petitioner or his relatives or his friends, not less than the value of Rs.1,00,00,000/- (Rupees one crore only) with the proper valuation certificate issued by the authorities concerned including the property situated at Anna Nagar East, comprised in Re.S.Nos.71/2A1A1B at 3200 square feet to the credit of Crime No.1154 of 2020 on the file of the learned Judicial Magistrate No.II, Madurai and on such deposit, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the Judicial Magistrate Court No.II, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two blood related 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 daily morning at 10.30 a.m., without fail, for a period of Two Weeks and thereafter as on 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 accused/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
13/10/2020

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

TO

1 THE JUDICIAL MAGISTRATE NO.II,
MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

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

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

ORDER
IN
CRL OP(MD) No.11103 of 2020
Date :13/10/2020

vsd
JM/AKM/SAR IV/15.10.2020/5P/5C