

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Sixteenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.4916 of 2021

JIVITESH

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

THE INSECTOR OF POLICE,
POONAMALLEE POLICE STATION,
THIRUVALLUR
(CRIME NO.590/2020)

For Petitioner : M/S.K.THENRAJAN Advocate

For Respondent : M/S.T.SHUNMUGARAJESWARAN Government Advocate
(Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 461, 380 & 511 of IPC, in Crime No.590 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., Vani, the Manager of Muthoot Finance Limited is that on 16.06.2020 some unknown accused have attempted to break open the lock of their Finance Company to commit theft. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that this is the second application for anticipatory bail, as certain particulars were not disclosed in the earlier application filed by the petitioner in Crl.O.P.No.19367 of 2020, the same was dismissed by this Court on 18.12.2020. He would submit that the petitioner was earlier falsely implicated in Crime No.771 of 2020, registered by the Avadi Police Station, for offence u/s.457 & 511 IPC and the petitioner was arrested on 18.06.2020 and released on bail on 26.06.2020 and thereafter the petitioner was arrested in Crime No.1497 of 2020

registered by the Vellavedu Police Station for offence u/s.457 & 511 of IPC and was released on bail on 30.07.2020. He would further submit that based on the confession recorded, the petitioner was falsely implicated in the present case in Crime No.590 of 2020 registered by the Poonamallee Police Station while he was in custody. He would further submit that the petitioner is an Engineering graduate and since the main accused is the friend of the petitioner, the petitioner is also falsely implicated in the said offence. He would further submit that the petitioner was regularly complying with the conditions imposed by the learned Judicial Magistrate No.II, Poonamallee. He would further submit that apart from these three cases, the petitioner has no other cases pending against him. He would further submit that the petitioner's father is the Chief Controller in Southern Railway and either the father or the mother of the petitioner will stand as surety to the petitioner.

4.Learned Government Advocate (Crl. Side) would submit that this is the second anticipatory bail application and the earlier application filed by the petitioner was dismissed by this Court vide order dated 18.12.2020 in Crl.O.P.No.19367 of 2020. He would submit that the petitioner is an Engineering graduate and he along with other accused had committed the offence. In this case, before commission of offence, when they attempted to break open the door of the defacto complainant's finance company, the alarm started to ring, hence the accused were unable to commit the offence. He would further submit that the investigation is pending and the petitioner was enlarged on bail in other two cases registered by Avadi Police Station and by the Vellavedu Police Station.

5.Heard the counsels. Perused the materials placed on record.

6.Taking into consideration the fact and submissions, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

(a) the petitioner is directed to be released on bail in the event of his arrest or on his appearance before the learned Judicial Magistrate II, Poonamallee, on condition that the petitioner shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties (out of which one surety should be either the mother or the father of the petitioner) each for the like sum to the satisfaction of the police officer who intends to arrest, within four (4) weeks from the date of which the copy of the order is made ready failing which the petition for anticipatory bail shall stand dismissed automatically;

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c]the petitioner shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter on every Monday at 10.30 a.m. until further orders.

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

[e] the petitioner shall not abscond 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.

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

-sd/-

16/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, POONAMALLEE

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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4 THE INSECTOR OF POLICE,
POONAMALLEE POLICE STATION,
THIRUVALLUR

CC to M/S.J.GANESH Advocate on payment of necessary charges

CRL OP.4916/2021

Date :16/03/2021

rvr 09/04/2021



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