IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Ninth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION NOS.6646 & 6677 OF 2021

AND CRL.MP.NOS.4777 & 4778 OF 2021

T.DHAKSHAYANI [PETITIONER / ACCUSED IN CRL.OP.NO.6646 OF 2021]

G.LUCAS [PETITIONER / ACCUSED IN CRL.OP.NO.6677 OF 2021]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE (CRIME),
B1 NORTH BEACH ROAD,
CHENNAI CITY.
CRIME NO.1860 OF 2020.
[RESPONDENT IN CRL.OP.NO.6646 OF 2021]

THE STATE REP.BY
THE INSPECTOR OF POLICE (CRIME),
B-1 POLICE LIMITS, NORTH BEACH STATION,
RAJAJI SALAI, PARRYS,
CHENNAI - 600 001
CRIME NO.1860 OF 2020.
[RESPONDENT IN CRL.OP.NO.6677 OF 2021]

DEVENDRAN [PETITIONER / INTERVENER / DEFACTO COMPLAINANT IN BOTH THE PETITIONS]

(Ordered as per order of this Court dated 29/04/2021 made in CRL.MP.NOS.4777 & 4778 OF 2021 IN CRL.OP.NOS.6646 & 6647 OF 2021]

For Petitioner : M/S.N.MANOHARAN Advocate
[IN CRL.OP.NO.6646 OF 2021]

For Petitioner : M/S.T.M.NAIDU AND CO Advocate
[IN CRL.OP.NO.6677 OF 2021]

For Respondent : M/S.T.SHUNMUGARAJESWARAN, Govt. Advocate (Crl.Side) [IN BOTH THE PETITIONS]

For Intervenor : M/S.F.ARIFNAWAS Advocate [IN BOTH THE PETITIONS]

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 294(b), 461, 468, 471, 474, 477(A) r/w 420 IPC, in Crime No.1860 of 2020, on the file of the respondent/Police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant/Devendran lodged a complaint against the petitioners on 12.11.2020. The said Devendran's elder daughter Charulatha married one Premkumar, who is the brother of A1. The said Charulatha, during the month of January 2016, started a business in the name of M/s.Universal Security Services at Thuraipakkam. Since Charulatha and Premkumar got settled in London from the year 2010 and they used to come to India once or twice in a year, the business was looked after by the defacto complainant, who is the father of the said Charulatha and assist him, A1 and his wife helped him and the company bank account at Kotak Mahindra Bank is maintained by Charulatha. From the year 2017, there was no business transactions in the bank account and A1 and his wife do not come to office and take part in the business. Later, the defacto complainant came to know that A1 and his wife had started business in the same name at Puzhal, and with false documents, they opened bank account in Indian Bank, Red Hills and thereby, misappropriated Rs.32 lakhs. It was found that for the past three years, there was no business done by the daughter Charulatha and the said Charulatha's Pan Card and company name have been misused by A1 and his wife and income returns have been submitted by them. Thus, the petitioners along with other accused persons had forged the documents and misused the company name of the said Charulatha and misappropriated Rs.32 lakhs. When the defacto complainant questioned the same, they threatened and abused the defacto complainant. Since the father of A1 was an ex-employee of Official Liquidator Office, the defacto complainant could not get complete particulars from them. Further, it was found that A1 and his wife had damaged CCTV camera and taken the office records from the defacto complainant's office. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that A1 had already been arrested thereafter he was released on bail and co-accused had already been granted anticipatory bail by this Court in Crl.O.P.No.18410 of 2020 dated 18.12.2020. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) submitted that in this case, the defacto complainant, who is the father of the said Charulatha, had lodged a complaint to the respondent Police stating that his daughter's business was carried out by A1 and his wife, since his daughter had settled in London. Thereafter, in the year 2017, they have not come to office and also damaged CCTV camera and the office records have been taken away by them. Further, using the company name of his daughter's, A1 and his wife started another business and opened new account in the Indian Bank, Puzhal and also filed income returns using the Pan Card of said Charulatha. Thus, they have cheated and misappropriated an amount of Rs.32 lakhs. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. The learned counsel for the intervener would submit that the Pan Number of the defacto complainant's daughter had been misused by A1 and his wife in their business transactions. He would further submit that the petitioners along with other accused persons had misused the name of the defacto complainant's daughter and received the payments that are deposited in the second account opened by A1 and his wife. Thus, they have caused loss of nearly Rs.32 lakhs. He would further submit that the investigation is still pending.

6. Taking into consideration the fact A1 was arrested on 13.11.2020 and released on bail by the Lower Court on 24.11.2020 and the dispute is with regard to similarity in the name of Company and utilisation of Pan Number, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

7. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the learned VII Metropolitan Magistrate, George Town, Chennai, on condition that each of the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 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 petitioners shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 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].

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

-sd/-
29/04/2021

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 METROPOLITAN MAGISTRATE NO.VII,
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE (CRIME),
B1 NORTH BEACH ROAD,
CHENNAI CITY.

5 THE INSPECTOR OF POLICE (CRIME),
B-1 POLICE LIMITS, NORTH BEACH STATION,
RAJAJI SALAI, PARRYS,
CHENNAI - 600 001

+1CC to M/S.N.MANOHARAN Advocate on payment of necessary charges SR.NO.5702

+1CC to M/S.F.ARIFNAWAS Advocate on payment of necessary charges SR.NO.5605

CRL.OP.NOS.6646 & 6677 OF 2021
& CRL.MP.NOS.4777 & 4778 OF 2021

Date :29/04/2021

MK:04/06/2021