

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Saturday, the Seventeenth day of April Two Thousand Twenty One
PRESENT

The Hon`ble Mr Justice M.DHANDAPANI
CRIMINAL ORIGINAL PETITION No.6843 of 2021

1 KALA
2 KOKILA
3 A.ARUNACHALAM

[PETITIONERS / ACCUSED]

Vs

THE INSPECTOR OF POLICE [RESPONDENT]
E-8, KELAMBAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT.
CR.NO.27 OF 2021

For Petitioner : M/S.M.BABU MUTHU MEERAN Advocate

For Respondent :MR. T.SHUNMUGARAJESWARAN, Govt. Advocate (CrI. Side)

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

ORDER : The Court Made the following order :-

The petitioners / A4, A5 & A7, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 120(b), 465, 468, 469 and 470 IPC, in Crime No.27 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is stated to be a Share Holder and Director of one M/s.Herb Nutra Lab Private Limited, Vandalur, Chennai 600 0048. A1 is also one of the directors of the company. The allegation is that A1 and the other accused had removed the defacto complainant behind his back from the post of Director of the said company and inducted the new Director by means of a forged document. A9, a Chartered Accountant, is stated to have certified the removal of the petitioner from the post of director and appointment of a new directors. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the removal of the petitioners from the post of Director of the company and induction of a new directors to the company was done as per the law and the petitioners never forged any document as alleged. According to the learned counsel, when Form DIR-12 was filed before the Registrar of Companies to notify the appointment of new Director,

the Registrar of Companies after conducting a detailed enquiry and hearing the parties, by an order dated 30.04.2020 concluded that the appointment was not done in accordance with the provision under Section 169 of the Companies Act and thereby, declared the appointment as illegal and also referred the matter to the Directorate as per provisions of the Companies Act and relevant Rules and the matter is still pending before the Directorate. Absolutely, there is no forgery as alleged by the de facto complainant. The learned counsel would further submit that the dispute is purely civil in nature and a criminal colour is sought to be given for the same. By raising the very same allegations, a private complaint under Section 200 of Cr.P.C. was filed by the petitioners before the learned Judicial Magistrate-I, Chengalpattu and the same has been taken cognizance by the learned Magistrate and it is also pending. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent / complainant would submit that the dispute relates to removal of the defacto complainant from the post of Director of the company and appointment of one Arunachalam, Andimuppanar and others as Directors of the company. He would further submit that the investigation is pending. Hence, he would oppose for grant of anticipatory bail to the petitioners.

Learned counsel for intervenor vehemently oppose for grant of Anticipatory Bail.

5.Taking into consideration, the dispute is in respect of removal and appointment of Directors to the company. Admittedly, when the company filed an application before the Registrar of Companies to notify the appointment of a new Director in the place of the petitioner, the Registrar of Companies by his order dated 30.04.2020 refused to do so. According to him, the appointment of a new Directors was illegal as it was not done in accordance with the provisions of the Act. Thereafter, it appears, that the matter has been referred to the Directorate and the same is pending. That apart, it is also stated that thereafter, the de facto complainant filed a private complainant under Section 200 of Cr.P.C., before the learned Judicial Magistrate-I, Chengalpattu, which has been taken cognizance and the same is pending. Even in the order of the Registrar of Companies, there is no finding to the effect that the petitioners committed forgery. The order of the Registrar of Companies has been referred to the Directorate and the same is pending. Considering all these aspects of the matter, this court is of the prima facie view that it is predominantly a civil dispute between the Directors of the company. That apart, a private complainant was already filed by the defacto complainant raising the similar allegations and the same is also pending. Thus, this court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :-

6. Accordingly, the petitioners are ordered to be released on anticipatory bail in the event of their arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned District Munsif Cum Judicial Magistrate No.I, Chengalpattu, 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 and on further conditions that:

(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) since the 1st and 2nd petitioners /A4 & A5 are ladies, they shall report before the respondent police as and when required by them for interrogation;

(c) the 3rd petitioner/A7 shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter they shall report before the respondent police on every Monday at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation;

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners are released on anticipatory 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;

(g) if the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

17/04/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE NO.I,
CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE INSPECTOR OF POLICE
E-8, KELAMBAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

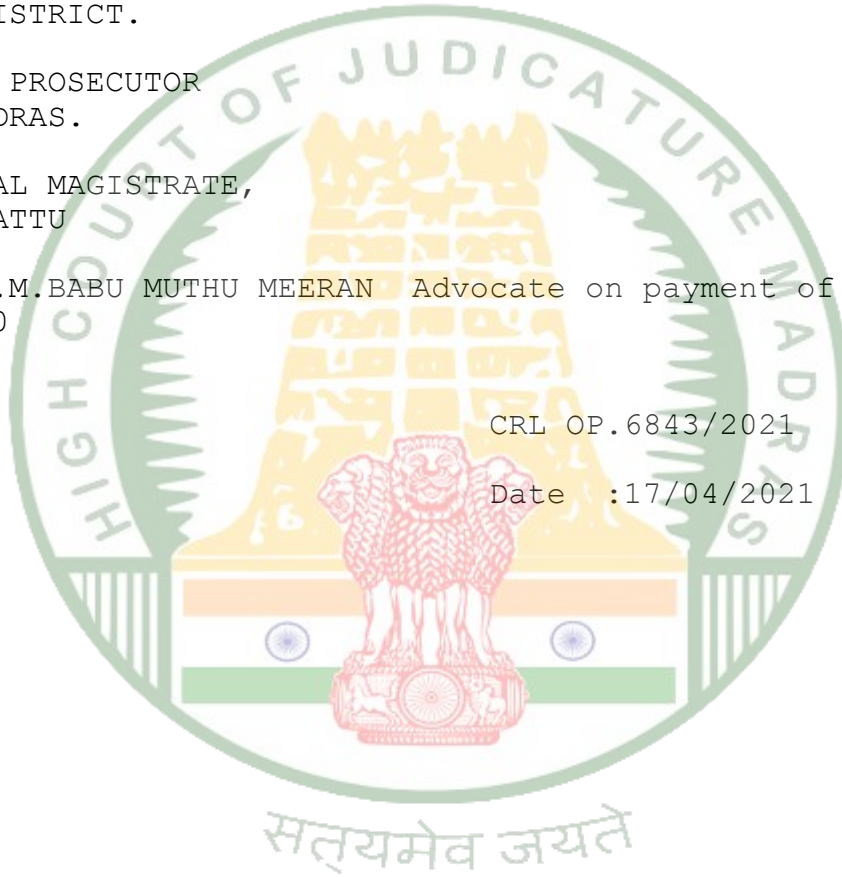
5 THE JUDICIAL MAGISTRATE,
NO.I, CHENGALPATTU

CC to M/S.M.BABU MUTHU MEERAN Advocate on payment of necessary
charges Sr.4920

CRL OP.6843/2021

Date :17/04/2021

RVR 07/05/2021



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