IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.06.2021

CORAM :

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

Crl.O.P.No.9018 of 2021

Asokan ... Petitioner

Vs.

State Rep by
Inspector of Police,
EDF- II, Team 3,
Central Crime Branch,
Chennai.
(Cr.No.90 of 2021) ...Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Cr.P.C., to grant anticipatory bail to the petitioner in the event of her arrest in Crime No.90 of 2021 pending investigation on the file of the respondent.

For Petitioners : Mr.J. William Shakesphere

For Respondent : Mr.C.E. Pratap
Government Advocate (Crl. Side)

O R D E R
(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 406, 420 and 34 of I.P.C in Crime No.90 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is manufacturing various microutrient fertilizers and the petitioner herein induced the defacto complainant that there was a good business opportunity purely based on investments. Pursuant to which there was a meeting between the petitioner and one Mr.K.V.N.Rajan, who is incharge of operations of ITI. In the meeting the said K.V.NRajan, explained that ITI is a Government of India undertaking and they do not have any provision to make advance payment to anyone without a bank guarantee and informed that the Government of India has permitted them to get funding from their approved vendors and utilize the same for procurement of Nitrile Gloves; by providing them a margin of 10% over and the above the price supplied by the distributors. Believing the words of the said K.V..N.Rajan the petitioner entered into a business transaction with M/s DCDR Infra Pvt.Ltd for supply of Nitrile Gloves and transferred Rs.2 crores to them. Thereafter, when the petitioner asked for the receipt for the payment to K.V.N.Rajan for one reason or the other evaded the same and had stated that no receipt invoice is required. Thereafter the petitioner received a sum of Rs.2.2 crores from M/s K.M.C, the defacto complainant, who had asked for delivery of Nitrile Gloves, which was on the basis of direction of K.V.N.Rajan. Only then the petitioner understood the fraud perpetrated on him by K.V.N.Rahan, since the Nitrile gloves were not supplied for the petitioner. Hence, the complaint.

3.The learned counsel appearing for the petitioner submits that the petitioner had already paid Rs.20,00,000/- to the defacto complainant. He further submits Rs.65,00,000/- is already lying with the petitioner's bank account and since the defacto complainant has filed a criminal complainant, the Bank accounts of the petitioner has been freezed and requests to issue a direction to the authorities concerned to defreeze the bank accounts of the petitioner. On instructions, learned counsel further submits that the petitioner, without prejudice to his rights, is ready to deposit the amount of Rs.1,35,00,000/- to the credit of the crime number and also conceded the same to be disbursed to the defacto complainant. However, the learned counsel submitted that before disbursing the amount to the defacto complainant, an affidavit of undertaking shall be obtained from the defacto complainant stating that in the event of the petitioner succeeding in the case, the amount of Rs.1,35,00,000/- will be returned to the petitioner.

4.The learned Government Advocate (Crl.Side) submits that the petitioner after receiving a sum of Rs.2 crore failed to acknowledge the same and thereby cheated the defacto complainant. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

6. Considering the submission made by the learned counsel on either side and further the petitioner, on his own volition, is ready and willing to deposit Rs.1,35,00,000/ to the credit of the above Crime No., this Court is inclined to grant anticipatory bail to the petitioner with some stringent conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the CCB of CBCID Court at Egmore, on condition that 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 condition that:

(a) the petitioner shall deposit a sum of Rs.1,35,00,000/ (Rupees one crore and thirty five lakhs only) to the credit of Cr.No.90 of 2021 before the learned CCB of CBCID Court at Egmore, within a period of eight weeks from the date of receipt of a copy of this order . On such deposit being made, the CCB of CBCID Court at Egmore, shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of Rs.1,35,00,000 deposited by the petitioner to the credit of Cr.No.90 of 2021 will be returned to the petitioner and after obtaining such affidavit of undertaking from the defacto complainant, shall disburse the said amount to the defacto complainant within a period of two weeks thereafter;

(b)the petitioner 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;

(c)the petitioner shall report before the respondent police daily 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 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]; and;

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

-sd/-
16/06/2021

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 CCB & CBCID COURT AT
EGMORE.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
EDF-II, TEAM3,
CENTRAL CRIME BRANCH,
CHENNAI.

+1 CC to M/S.J.WILLIAM SHAKESPHERE Advocate on payment of necessary charges SR.No.6571

CRL OP.9018/2021

Date :16/06/2021

cs 09/07/2021