IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fifteenth day of June Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.10365 of 2021

A.NANDAA KUMAR [PETITIONER / ACCUSED]

Vs

STATE OF TAMIL NADU REP BY [RESPONDENT]
DY. SUPERINTENDENT OF POLICE,
CRIME BRANCH CID,
ORGANISED CRIME UNIT-I,
CHENNAI-600008.
(CRIME NO.2/2021)

For Petitioner : M/S.M.R.VENKATESH Advocate

For Respondent : M/S.C.E.PRATAP Govt. 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 offence u/s 420 and 506 (1) IPC and Section 10 r/w 24 of Immigration Act, in Crime No.2 of 2021, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner, under the guise of providing job opportunities to persons overseas, lured the defacto complainant to join Kamadenu Ventures (Cambodia) Ltd., (for short 'KVCL') of which the petitioner is alleged to be one of the Directors. It is the further case of the prosecution that the defacto complainant and one Viswanathan, in addition to other persons, were employed in KVCL. Though the defacto complainant and others were said to be employed in KVCL, however, only tourist visa was obtained for those persons for their working in KVCL at Cambodia. It is the further case of the prosecution that due to mismanagement of finances on the part of KVCL, the defacto complainant as also the other persons were not paid their salary, due to which claim for salary was made by the defacto complainant and others. It is the further case of the prosecution that the defacto complainant was abused in filthy

language and threatened by the petitioner with dire consequences. It is the further case of the prosecution that many of the employees were lodged in repatriation camps in Cambodia only to be later brought back to India. Since due salary was not paid to the employees, including the defacto complainant, on their arrival in India, complaint was filed with the Ministry of External Affairs, which resulted in the registration of the case by the respondent police after due enquiry conducted by the respondent police with the defacto complainant and other similarly placed persons.

3. Learned counsel appearing for the petitioner submitted that the petitioner was only a Director in KVCL and that the company was not promoted by him. It is the further submission of the learned counsel for the petitioner it is only the defacto complainant and one Viswanathan were in-charge of the day-to-day affairs of the company, including staff recruitment and signatories for all bank transactions. It is the further submission of the learned counsel for the petitioner that the defacto complainant and Viswanathan conspired and diverted and embezzled the funds of KVCL and when the said fraud came to light, Viswanathan, with a view to safeguard himself, filed a complaint in Cambodia against the defacto complainant and the defacto complainant, evading criminal prosecution, came to India and to wriggle out of the situation, has implicated the petitioner in the crime as if the petitioner had recruited him to KVCL and was involved in job racketing. It is the submission of the learned counsel that the petitioner has no link with the alleged irregularities as pointed out in the complaint and only to safeguard the defacto complainant, the law enforcing agency is trying to implicate the petitioner in the crime and, therefore, the present petition has been filed for anticipatory bail.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submitted that the whole crux of the issue relates to job racketing in which the petitioner has played as part as recruiter in KVCL. Further, it is submitted by the learned Government Advocate that even according to the petitioner, he was one of the Directors of the company and that the persons, who had been employed through the petitioner in KVCL had not been paid their salary and the complaint from the defacto complainant reveal that the employees were put in repatriation camp before their deportation back to India and that on the basis of the complaint that emanated from the defacto complainant, which was forwarded by the Ministry of External Affairs, the law enforcing agency has received the complaint from the defacto complainant and registered the case and that the investigation in the case is still going on. In the above backdrop, learned Government Advocate opposed grant of anticipatory bail to the petitioner.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel on either side and also perused the materials available on record.

6. Though the petitioner has contended that he is only a Director of KVCL and is in no way connected with the other affairs of KVCL and that he is not in any way connected with the recruitment process and also relating

to the recruitment of the defacto complainant and other persons, yet a bare perusal of the FIR reveals that the main allegation relates to employment of persons in KVCL by the petitioner through his recruiting agency, which is alleged to be not registered with the Ministry of External Affairs as per the provisions of the Immigration Act. It is the further allegation of the defacto complainant that not only the defacto complainant, but also very many employees, who were recruited in KVCL, through the petitioner, were not employed on the basis of employment visa, but were shuttled between Cambodia and Vietnam on tourist visa, to by-pass the visa rules relating to employment and taxation in Cambodia. It is not the case of the petitioner that the defacto complainant was not employed in KVCL of which he is one of the Directors.

7. Though the petitioner has raised counter allegations against the defacto complainant relating to misuse of the funds of KVCL for which it is alleged that a complaint was filed by another employee, viz., Viswanathan, it is to be pointed out that even according to the petitioner, the said complaint was filed not within the Indian jurisdiction and the complaint has also not emanated from the petitioner. It is the further case of the petitioner that the said complaint against the defacto complainant by the other person was only due to certain disputes between those two individuals. In the above backdrop, this Court cannot enter into analysing the said complaint and the bona fides of the said complaint. The present complaint had emanated from the Ministry of External Affairs on the basis of the complaint from the defacto complainant, which has resulted in the criminal machinery being set in motion through the registration of FIR. The complicity of the petitioner in the affairs of KVCL as also in the recruitment of various persons to KVCL would only come to light after investigation by the law enforcing agency. If really the petitioner is in no way involved in the illegal affairs of KVCL, nothing prevents the petitioner from appearing before the law enforcing agency and placing the necessary materials to absolve himself from the clutches of law.

8. Further, the imputations made against the petitioner by the defacto complainant are grave in nature, which necessitates a full fledged investigation. Further, when pointed allegations have been made against the petitioner by the defacto complainant, more so the complaint having been forwarded by the Ministry of External Affairs, the matter assumes significant importance and a full fledged investigation is the need of the hour. Interference of the petitioner with the course of investigation, as apprehended by the law enforcing agency cannot also be ruled out in the facts portrayed above. Further, job racketing is one of the major menace that is affecting the citizens of India, as under the guise of higher emoluments, the persons are lured by unscrupulous individuals and taken to other countries only to suffer in those countries and such acts come to light only at a belated point of time. Therefore, acceding to the prayer of the petitioner by granting anticipatory bail would work hardship against the flow of investigation. Therefore, this Court is not inclined to favourably consider the request of the petitioner for grant of anticipatory bail.

9. For the reasons aforesaid, this criminal original petition deserves to be dismissed and, accordingly, the same is dismissed.

-sd/-
15/06/2021

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 DEPUTY SUPERINTENDENT OF POLICE,
CRIME BRANCH CID, ORGANISED CRIME UNIT-I ,
CHENNAI-600 008.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.R.PALANIANDAVAN Advocate on payment of necessary charges
SR.NO. 6495

CRL OP.10365/2021

Date :15/06/2021

MN-01/07/2021