

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.04.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.18749 of 2020

Sivaguru
S/o.Ponnan

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
District Crime Branch,
Villupuram.
Crime No.24 of 2020.

...Respondent

Prayer : Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest on the file of the respondent police in Connection with the Crime No.24 of 2020.

For Petitioner : Mr.A.Ashok Kumar

For Respondent : Mr.L.Charles Prekumar
Government Advocate

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 506(i) of IPC in Crime No.24 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Mahadevan is that the petitioner along with one Saravanan had induced the defacto complainant and other victims, on the promise of giving high returns and made them to deposit money in KMG Trading and later cheated them to the tune of Rs.12,58,200/-. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the allegation in the F.I.R. against the petitioner and one Saravana is that they had received money from the defacto complainant and other victims by using the name of K.M.G. Trading and thereafter, had cheated the defacto complainant and the other victims. He would submit that a case of non repayment of loan, has been falsely projected has a case of finance transaction. He would submit that the petitioner had received Rs.3.50 lakhs from the defacto complainant Mahadevan and he has repaid an amount of Rs.1.50 lakhs to him on 23.01.2021 and for the balance amount, the said Mahadevan has agreed to take the amount of Rs.2 lakhs which has been

deposited by the co-accused Saravanan before the Ulundurpet Court. Further, the petitioner had received a sum of Rs.3.63 lakhs from one Parasuraman and he has paid the entire amount to him. As far as yet another person namely Harikrishnan is concerned, the petitioner had received Rs.1 lakh and after repaying part amount, the petitioner had to pay Rs.66,000/- and that the same was paid to him on 28.01.2021 and thereby, the petitioner has settled the claim with the said Harikrishnan. He would submit that in respect of one Tamil Selvan is concerned, the accused had received a sum of Rs.3 lakhs and after repaying part amount, the accused had to repay a sum of Rs.2,32,000/- out of which, the petitioner has repaid Rs.1,32,000/- to the said Tamilselvan on 28.01.2021 and the balance amount of Rs.1 lakh remains to be paid to him and that the corresponding receipts have been filed along with the typed set. He would reiterate that a case of non repayment of loan amount has been falsely projected as a case of cheating. Hence, he would seek for anticipatory bail.

4. The learned Government Advocate would vehemently oppose stating that the petitioner along with one Saravanan had floated a company in the name of K.M.G. Trading and in the guise of repaying the amount in double, had induced the defacto complainant and others and received monies from them and later cheated them. He would further submit that the investigation is pending.

5. Heard the learned Counsels on either side and perused the materials on record and the receipts filed by the victims.

6. It is seen that out of Rs.12 lakhs, an amount of Rs.8 lakhs has been repaid by the petitioner to the persons from whom the amounts were borrowed. Taking into consideration the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

(a) 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 on which the order copy made ready, before the learned Judicial Magistrate-II, Ulundurpet, 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[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 for a period of two weeks and thereafter, 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/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Ksa-2

To

1. The Judicial Magistrate-II,
Ulundurpet

2.The Inspector of Police
District Crime Branch,
Villupuram -631 501

3.The Public Prosecutor
High Court of Madras
Chennai 600 104

CrI.O.P.No.18749 of 2020

MG(CO)
GN(29/06/2021)