



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Seventh day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.16747 of 2021

AND

CRL.M.P.No.9476/2021 IN CRL.O.P.No.16747/2021

1 V.MAHALAKSHMI [PETITIONER / ACCUSED]
2 KUMAR

Vs

THE STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VELLORE, VELLORE DISTRICT.
(REF- CRIME NO.11 OF 2021 DATED 02.09.2021)

D.LILLY [INTERVENE PETITIONER/DEFACTO
COMPLAINANT]

Ordered as per order of this Court dated 27/09/2021 in
Crl.M.P.No.9476/2021 in Crl.O.P.No.16747/2021

For Petitioner : M/S. P.KRISHNAN Advocate

For Respondent : M/S. C.E.PRATAP, Govt. Advocate (Crl. Side)

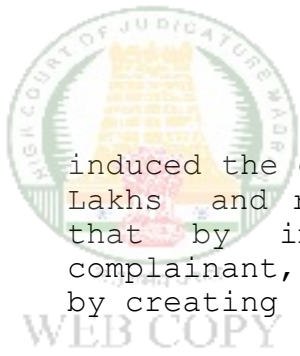
For Intervenor : MR. M.PALANIVEL Advocate

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 offence under Sections 419 and 420 of I.P.C. and Section 66C of the Information Technology Act, 2000, in Cr.No.11 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners and the defacto complainant are partners. The petitioners are alleged to have



induced the defacto complainant and grabbed a sum of Rs.1 Crore and 25 Lakhs and repaid only a sum of Rs.30 Lakhs. It is further alleged that by impersonating the digital signature of the defacto complainant, the petitioners sold several machineries to other parties by creating forged documents.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and that they have been falsely implicated in the case. He would further submit that earlier the petitioners lodged complaint as against the defacto complainant and her husband and a case was registered and thereafter, they were enlarged on bail and in order to wreck vengeance, the defacto complainant has lodged the present complaint. He would further submit that it is purely a commercial dispute and it has to be agitated before the competent Commercial Forum.

4.The learned counsel appearing for the intervenor submitted that a sum of Rs.68 Lakhs was paid by way of Bank transaction. The principal amount along with interest amounts to Rs.1 Crore and 25 Lakhs out of which, the petitioners have repaid only a sum of Rs.30 Lakhs. He further submitted that by impersonating the digital signature of the defacto complainant and by creating forged documents, the petitioners sold several machineries to other parties.

5.Heard the submissions made by the learned Government Advocate.

6.This Court perused the complaint in F.I.R. It reveals that the defacto complainant and the first petitioner are partners in the company and they are owning partnership in the ration 25% : 75%. Huge amount is said to have been transacted by way of Bank transaction and other transaction. The defacto complainant claims that the principal amount along with interest amounts to Rs.1 Crore and 25 Lakhs out of which, the petitioners have repaid only a sum of Rs.30 Lakhs. This Court is unable to understand as to how one partner is claiming interest as against another partner and this creates suspicion. It is also not disputed that earlier the petitioners lodged complaint as against the defacto complainant and her husband and a case was registered and thereafter, they were enlarged on bail. However, considering the fact that the present complaint is purely out of commercial transaction, it has to be agitated before the competent Commercial Forum. Hence, this Court is inclined to grant anticipatory bail to the petitioners.

7.Accordingly, the petitioners are ordered to be released on bail in the event of 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 Judicial Magistrate - I, Vellore, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 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) the petitioners shall report before the respondent police 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 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;

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

8. It is made clear that this Court has not expressed any opinion on the merits of the case. The facts discussed in this order is only for the purpose of grant of anticipatory bail to the petitioners. If any petition is filed or have been filed before any other competent Forum, the concerned Forum shall proceed with the case, without being influenced by any of the observations made in this order and shall decide the matter independently, purely on merits, based on the available records and in accordance with law.

-sd/-

27/09/2021

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.



1 THE JUDICIAL MAGISTRATE,
NO.I, VELLORE

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VELLORE, VELLORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. P.KRISHNAN Advocate on payment of necessary
charges SR.No.10678

+1 CC to M/S. V.AVINASH Advocate on payment of necessary
charges SR.No.10659

CRL.O.P.No.16747/2021
AND

CRL.M.P.No.9476/2021
IN
CRL OP.16747/2021

Date :27/09/2021

APN 05/10/2021