

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fourth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.19355 of 2020

PRADEEP

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
SALEM CITY,
SALEM.
CR.NO.10/2020.

[RESPONDENT]

For Petitioner : M/S.S.PARTHASARATHY Advocate

For Respondent : MR. C.IYYAPPARAJ, Additional Public Prosecutor

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 alleged offence punishable under Section 420, and 506(1) IPC, in Crime No.10 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that A1 to A4 were doing online trading business in the name of Ocean Rich and on the inducement and false promise of giving Rs.1,666/- per day for the investment of Rs.1 Lakh, the accused had collected money to the tune of Rs.7,77,50,000/- from the defacto complainant and other investors and relatives through bank transaction. Thereafter they have cheated the investors. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is implicated only based on the confession recorded from one Sugavanam, who is arrayed as A4 and who is also the Director of the company which was floated by the main accused. Even as per the confession recorded from A4 it has been stated that the main accused in this case had approached this petitioner to compromise the issue with the complainants by using force or threat for which the other accused

had paid Rs.8,30,000/- to the petitioner. He would further submit that the petitioner has only borrowed an amount of Rs.8,30,000/- from them, however, the petitioner has been implicated only based on the confession and he would however submit that without prejudice to the contention, the petitioner is prepared to deposit Rs.8,30,000/- to the credit of Crime No.10 of 2020, and the petitioner has also filed an affidavit of undertaking to deposit the said amount.

4.Per contra, learned Additional Public Prosecutor appearing for the respondent would submit that the earlier application filed by the petitioner for anticipatory bail in CrI.O.P.No.15437 of 2020 was dismissed by this Court on 09.11.2020. He would further submit that the petitioner is the relative of the main accused and the petitioner is the person against whom there are two previous cases and he happens to be the rowdy element in that area and by using him other accused had threatened the persons who had invested in the company floated them. Further, A4 in this case had confessed that he handed over the amount of Rs.8,30,000/- to the petitioner to threaten the other complainants / victims. He would further submit that the petitioner has got two previous cases one registered by the Salem City, Kitchipalayam Police, in Crime No.312 of 2014 for the offence u/s.147, 148, 294(b), 307, 341, 506(2) IPC and yet another case registered by the Salem City Steel Plant Police Station, in Crime No.363, 376(2)(g), 394 IPC @ 147, 148, 149, 366, 376(2)(g), 395 IPC. He would further submit that the accused have cheated the gullible investors to the tune of Rs.7,77,50,000/- and that they have repaid Rs.6,07,88,000/- to the complainants before the month of December 2019 and Rs.1,69,62,000/- remains to be settled to the depositors. He would also submit that the arrested main accused in this case have been released on statutory bail, and other accused are still absconding.

5.At this juncture, learned counsel for the petitioner would submit that as far as the case registered by the Steel Plant Police station in Crime No.324 of 2004 is concerned that was registered 16 years back, i.e. during 2004 and the petitioner has been acquitted in that case. He would further submit that as far as the case registered by the Kitchipalayam Police Station is concerned, it has been registered during the year 2014. He would further submit that the petitioner is prepared to deposit the received amount of Rs.8,30,000/- to the credit of crime No.10 of 2020 and he is also prepared to cooperate with the respondent police during investigation. He would further submit that this Court by order dated 09.11.2020 in CrI.O.P.No.15437 of 2020 had dismissed the earlier application filed by the petitioner for anticipatory bail.

6.Heard the counsels. Perused the status report filed by the Inspector of Police, Central Crime Branch, Salem City and the undertaking affidavit filed by the petitioner. The undertaking affidavit has been taken on record.

7.Taking into consideration the fact that the earlier application for anticipatory bail was dismissed by this Court on 09.11.2020 in CrI.O.P.No.15437 of 2020 and that the respondent have

not taken any steps to arrest the petitioner, and also considering the fact that the petitioner now has filed an undertaking affidavit to deposit Rs.8,30,000/- which is stated to have been received from the main accused, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

(a) the petitioner is directed to be released on bail in the event of his arrest or on his appearance before the learned Judicial Magistrate III, Salem City, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Twenty Five Thousand only) with two sureties each for the like sum to the satisfaction of the police officer who intends to arrest, within four (4) weeks from the date of which the copy of the order is made ready failing which the petition for anticipatory bail shall stand dismissed automatically;

[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 a.m. until further orders.

[d] the petitioner shall deposit Rs.8,30,000/- to the credit of Crime No.10 of 2020 within a period of four weeks from the date of which the copy of this order is made ready.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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]**.

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
04/03/2021

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 JUDICIAL MAGISTRATE,
NO.III, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
SALEM CITY,
SALEM.

CC to M/S.S.PARTHASARATHY Advocate on payment of necessary charges

CRL OP.19355/2020

Date :04/03/2021

TA-11/03/2021