



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Eighth day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.17953 of 2021

1 S.KIRUTHIKA
2 N.KAMAKODI
3 B.R.KIRUBAKARAN
4 K.MAHARAJAN

[PETITIONERS / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
SALEM CITY.
(CRIME NO.7 OF 2021)

[RESPONDENT]

For Petitioner : MR.AR.L.SUNDARESAN, Senior Advocate
for M/S. AL.GANTHIMATHI

For Respondent : MR.C.E.PRATAP, Govt. Advocate (Crl. Side)

For Intervenor : MR.D.SENTHILKUMAR 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 409, 420, 477A and 109 of I.P.C. in Cr.No.7 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is a partner of M/s.Nivas Fabs and the other partners are her sons. One of the defacto complainant's son Mr.Venugopal Srinivasan was having transactions with City Union Bank Limited since 1994. It is alleged that the accused induced the complainant to avail loan and a sum of Rs.5.50 Crores was sanctioned as loan to M/s.Niwas Fabs repayable with interest at the rate of 14% per annum. Thereafter, a sum of Rs.3.50 Crores was illegally transferred to the account of Mr.Venugopal Srinivasan to settle his loan with the Bank without the consent of the defacto complainant and other partners of M/s.Niwas Fabs. Hence, the complaint.



3.The learned Senior Counsel appearing for the petitioners would submit that admittedly M/s.Nivas Fabs availed loan in the year 2011 and for non payment of the loan, debt recovery proceedings were initiated in the year 2014. Infact, the defacto complainant arrived at one time settlement with the Bank and agreed to pay a sum of Rs.18 Crores on or before 30.09.2014, however, paid a sum of Rs.17 Crores and odd by 2016 much after 30.09.2014 and hence the Bank pursued with the debt recovery proceedings and obtained decree against M/s.Nivas Fabs on 25.11.2017.

4.The learned Senior Counsel appearing for the petitioners would further submit that the petitioners are the Branch Manager, Salem Main Branch; Managing Director and Chief Executive Officer; Branch Manager, Komaramangala, Bengaluru and Senior General Manager, Recovery Department of the City Union Bank. He would further submit that though the alleged crime is of the year 2011, the case has been registered in the year 2021 at the instigation of the defacto complainant.

5.The learned counsel appearing for the intervenor vehemently opposed for grant of anticipatory bail to the petitioners, however, he fairly conceded that there is no instructions from his client and sought for adjournment for filing intervening petition.

6.The learned Government Advocate submitted that the alleged crime is of the year 2011, however, the case has been registered in the year 2021.

7.This Court perused the F.I.R. It reveals that the defacto complainant is a partner of M/s.Nivas Fabs and the other partners are her sons. A sum of Rs.5.50 Crores was sanctioned as loan to M/s.Nivas Fabs repayable with interest at the rate of 14% per annum. Thereafter, a sum of Rs.3.50 Crores was illegally transferred to the account of Mr.Venugopal Srinivasan/ one of the defacto complainant's son to settle his loan with the Bank. The said incident took place in the year 2011, however, the law enforcing agency has registered the case against the petitioners, who are responsible persons in the City Union Bank in the year 2021.

8.Hence, this Court is inclined to grant anticipatory bail to the petitioners and is inclined to issue direction to the Superintendent of Police, Salem, to conduct enquiry against the Station House Officer who registered the case in Cr.No.7 of 2021.

9.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 No.1, Salem, 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.

10. This Court directs the Superintendent of Police, Salem, to conduct enquiry against the Station House Officer who registered the case in Cr.No.7 of 2021 and take appropriate action against the Station House Officer, if it is proved that if he/ she has committed any wrong.

-sd/-
28/09/2021

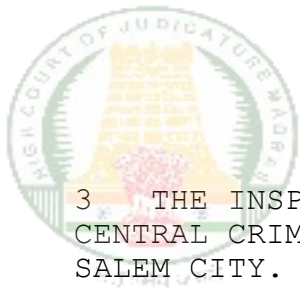
This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.I,
SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]



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

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT OF POLICE,
SALEM.

+1CC to M/S. AL.GANTHIMATHI Advocate on payment of necessary
charges SR.NO.10690

+1CC to M/S.D.SENTHILKUMAR Advocate on payment of necessary
charges SR.NO.10733

CRL OP.17953/2021

Date :28/09/2021

CSK 04/10/2021