



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.12.2021

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.No.23707 of 2021

R.Mai Vasantha Kumar

... Petitioner

Versus

State Rep by

1. The Deputy Commissioner of Police,
Bengaluru South, Bengaluru City,
Karnataka.
 2. The Inspector of Police,
Banashankari CEN Police Station,
Bengaluru - 560 070, Karnataka State.
 3. The Inspector of Police,
Egmore Police Station,
Chennai.
- (Crime No.81 of 2021)

... Respondents

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure seeking to enlarge the petitioner on bail in the event of their arrest in Crime No.81 of 2021 pending investigation on the file of the respondent police.

For petitioner : Mr.C.Iyyapparaj

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 66(C) (D) of Information Technology Act 2008 and 419, 420 of IPC and section 21 of Banning of unregulated Deposit Schemes Act 2019 & Section 9 of KPID Act 2004, in Crime No.81 of 2021, on the file of the respondent police, seeks Interstate anticipatory bail.

2. The petitioner who have been accused of non-bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, have approached this Court for Anticipatory Bail, so as to enable them to approach the appropriate Court.



3. The case of the prosecution is that the husband of the defacto complainant had deposited Rs.1,740/- to the defacto complainant's account, the amount is transferred but the same is not deposited to that account. Therefore, on 11.02.2021 it was searched in the Google for Customer care number and when enquired it was informed that that an petitioner had forwarded a number and informed the defacto complainant to subscribe it in the Google Pay account, accordingly the complainant had incorporated the number in the defacto complainant's Google Pay account, subsequently the petitioner has deducted totally Rs.47,280/- from the defacto complainant's account. Hence, the complaint.

4. The learned counsel for the petitioner submits that the 2nd respondent issued a notice under section 41 A of Cr.P.C dated 18.11.2021. He further submitted that the petitioner is ready to co-operate for the investigation. Hence, he prays for grant of anticipatory bail to the petitioner.

5. Heard the learned Government Advocate (Crl.Side) appearing for the State.

6. The issue as to whether, in respect of the persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if his arrest is sought within the jurisdiction of this Court, irrespective of the fact that he is a resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, came up for consideration before the Division Bench of this Court in the case of S.P.Shanthi Swaroop v. State of Tamil Nadu, rep. By Asst. Commissioner of Police, Central Crime Branch, Madras reported in 1992 L.W.(Crl).475. After elaborate discussions, decisions and considering the ratio laid down by the Patna High Court in Syed Safrul Hassan v. State has passed the following order:-

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioner available for interrogation by the concerned police in the meantime. The reference is answered accordingly."



7. Thereafter, a learned Single Judge of this Court in the case of P.Thangavelu and others v. State, rep. By the Inspector of Police and other reported in 2017 (2) MWN (Cr.) 633 has passed the following orders,

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"9. Thus, it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioner for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10. Accordingly, Interim Anticipatory Bail is granted to the petitioner herein till 01.08.2016. The petitioner are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

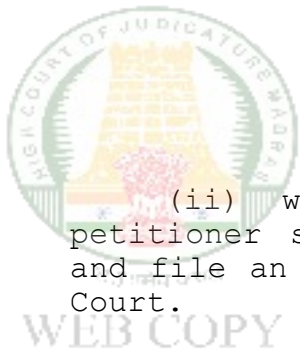
(i) Each petitioner shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 01.08.2016, the petitioner shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

8. In view of the decisions cited supra, this Court inclined to grant interim anticipatory bail to the petitioner till 04.01.2022. Accordingly, interim anticipatory bail is granted to the petitioner till 04.01.2022. The petitioner is directed to be enlarged on bail in the event of arrest or on his appearance before the first respondent police and on further condition that:

(i) the petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;



(ii) within the said period, i.e., before 04.04.2019 the petitioner shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

-sd/-

10/12/2021

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

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

TO

1 IST ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE COURT,
NRUPATUNGA ROAD, BENGALUR CITY

2 THE DEPUTY COMMISSIONER OF POLICE,
BENGALURU SOUTH, BENGALURU CITY,
KARNATAKA.

3 THE INSPECTOR OF POLICE
BANASHANKARI CEN POLICE STATION,
BENGALURU-560 070. KARNATAKA STATE.

4 THE INSPECTOR OF POLICE,
EGMORE POLICE STATION, CHENNAI.

5 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

CC to M/S. C. IYYAPPARAJ Advocate on payment of necessary
charges Sr.14638

CRL OP.23707/2021

Date :10/12/2021

RVR 16/12/2021