



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 01/03/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) . No.2708 of 2021

1. Abdul Gafoor
2. Navarin Gafoor

... Petitioners/
Accused Nos.1 and 3

Vs

The State Rep. by
The Inspector of Police,
District Crime Branch, Karur.
Crime No.15 of 2019.

... Respondent/Complainant

Mathankumar

... Intervener/Nil/
Defacto Complainant
in Crl.MP (MD) No.1751/2021
in CRL OP (MD) No.2708/2021

For Petitioners : Mr.AR.L.Sundaresan,
Senior Counsel for Mr.T.K.S.Gandhi

For Respondent : Mr.A.Robinson, Government Advocate (Crl.Side)

For Intervenor : Mr.S.Gokulraj, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

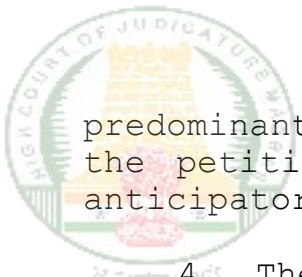
PRAYER :- For Anticipatory Bail in Crime No.15 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned senior counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondent and the learned counsel appearing for the intervenor.

2. The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 120(B), 294(b), 406, 420 and 506(i) of I.P.C., in Crime No.15 of 2019 on the file of the respondent police, seeks anticipatory bail.

3. The learned Senior counsel submitted that the second accused in this case was already arrested and that he was granted bail on condition to deposit a sum of Rs.34,00,000/- to the credit of the First Information Report in question. He would also state that earlier a sum of Rs.15,00,000/- has been collected from the petitioners herein. His contention is that the prosecution is



predominantly having a civil profile and that therefore, arrest of the petitioners is not at all warranted. He prayed for grant of anticipatory bail.

4. The learned Government Advocate as well as the learned counsel appearing for the intervenor would strongly oppose the grant of anticipatory bail.

5. As rightly pointed out by the learned counsel appearing for the intervenor, the petitioners had filed W.P.(C)No.28461 of 2019 before the High Court of Kerala at Ernakulam. In the said writ petition, the petitioners have admitted that the first petitioner is the Executive Director of M/s.Pinnacle Vehicles and Services Pvt. Ltd. There is a material to show that the second petitioner is the Director of the Company. But in the present petition for anticipatory bail in paragraph No.6, the petitioners have claimed that they are not the Directors of the Company. This is obviously a false averment. A person invoking the jurisdiction of the Court, must come with clean hands. This principle is applicable not only to Writ jurisdiction but also to cases filed under Section 482 of Cr.P.C.

6. The petitioners earlier filed CrI.O.P.(MD) No.205 of 2020. By order dated 22.01.2020, it was dismissed in the following terms:-

"3. The case of the prosecution is that the defacto complainant is dealing in cars. The petitioners herein had entered into an agreement on 06.06.2019 with the defacto complainant. It is not in dispute that the defacto complainant had parted with a sum of Rs.48,00,000/- through RTGS in favour of the petitioners' company, namely, Pinnacle Vehicles and Services Pvt. Ltd. The petitioners are based in Kerala. According to the defacto complainant, he had parted with a further sum of Rs.29,00,000/- through RTGS in favour of one Shalimar Nanja and Rajshree Motors. Even though the amount was remitted to the petitioners either directly or to their nominees, the petitioners failed to supply the cars to the defacto complainant.

4. ..

5. The learned Government Advocate(CrI. Side) submitted that the respondent police endeavoured to resolve the issue amicably between the parties and that the petitioners had undertaken to settle their liability. But later the petitioners went back on the assurances originally given by them and they had also issued legal notices to the defacto complainant.

6. The learned Government Advocate(CrI. Side) states that the facts that have come out so far clearly reveal that apart from the defacto complainant, others have been cheated to the tune of a few crores of rupees. The



police have to necessarily probe the role of Santhosh Rajpurohit also. He is absconding.

7. On a careful perusal of the materials enclosed in the typed set, it can be seen that Santhosh Rajpurohit had first contacted the petitioners herein and only thereafter a tripartite agreement was entered into with the defacto complainant. The learned counsel appearing for the defacto complainant also produced certain photographs to show that Santhosh Rajpurohit had identified himself as the agent and representative of the petitioners herein/Pinnacle. The defacto complainant had directly paid substantial sums of money to the petitioners. The petitioners made it appear that they are one with Santhosh Rajpurohit."

7. The Hon'ble Supreme court in a recent decision has held that there cannot be successive filing of petitions for anticipatory bail. Therefore, on this sole ground, I decline to grant relief.

8. This criminal original petition stands dismissed.

sd/-

01/03/2021

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/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, KARUR.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to Mr.S.GOKUL RAJ, Advocate (SR-1624[I] dated 02/03/2021)
+1 CC to Mr.N.MOHIDEEN BASHA, Advocate (SR-1628[I] dated 02/03/2021)

ORDER IN
CRL OP(MD) No.2708 of 2021
Date :01/03/2021