BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
( Criminal Jurisdiction )
Date : 02/07/2021
PRESENT
The Hon`ble Mr.Justice G.CHANDRASEKHARAN
CRL OP(MD). No.2918 of 2021

1. Arivazhagan
2. Kalai Selvi
3. Arichandran
4. Selvamani
5. Muthu Lakshmi
6. Kannan ... Petitioners/Accused No.1 and 6

Vs

The State rep by
The Inspector of Police,
District Crime Branch,
Dindigul.
(Crime No.3 of 2021). ... Respondent/Complainant

For Petitioner : Mr.Pon Karthikeyan.R., Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.3 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A6, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 120(B), 406, 420, 294(b) and 506(2) of IPC in Crime No.3 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant has been doing finance business in North India from the year 2006. In the year 2014, the de-facto complainant, Selvakumar, Parthiban and Karthikeyan started a business in the name and style of Devar Enterprises in Gujarat and shared profit among them. They have started the business in Maharastra and expanded to Modosa, Paroda. The first accused is the friend of the de-facto complainant. A-1 advised the de-facto complainant regarding saving of the profit amount, he earned through his business. As per his advise, the de-facto complainant opened a new account in ICICI Bank, Dindigul. He had already an account in SBI, Vedasandur. One account was started in the name of Arivazhagan and another account in Arivazhagan's wife name and one more account was started in the name of Murugan in SBI Bank, Vedasandur. Arivazhagan advised the de-facto complainant to deposit his profits in these accounts. Arivazhagan and his wife got the ATM cards of these accounts. The de-facto complainant had been depositing his earnings in these accounts. He was informed by A1 and A2 that using the money deposited, they were doing finance business and also purchased lands. The de-facto complainant's father died on 09.07.2018. His family members were searching for a bride for the de-facto complainant. This was informed to A1 and A2 and he demanded the money deposited by him in their account. The accused 1 and 2 told him that they would make arrangement for his marriage with the second accused's sister-Muthulakshmi. The second accused's father Harichandran, his wife and Muthulakshmi came to the house of A1 and A2. The de-facto complainant had also visited and the marriage arrangement between the de-facto complainant and A5 (Muthulakshmi) was discussed. Since the father of the de-facto complainant died just now, it was decided to perform marriage one year after the date of death of his father. Believing the words of A1 and A2, the de-facto complainant deposited Rs.54,00,000/- in the account of Murugan and Rs.40,00,000/- in the account of A1 and A2. That apart, he had given a cash of Rs.15,00,000/- to the first accused. Muthulakshmi used to contact the de-facto complainant through phone. As per the request, 45 sovereigns of gold jewels were purchased by A1 and A2 as per the instruction by the de-facto complainant and given to Muthulakshmi. On 18.09.2020, the de-facto complainant asked about the marriage between him and Muthulakshmi and when it would be conducted, they were informed that Muthulakshmi is in love with some other person and that is why she is refusing to marry the de-facto complainant. When the Muthulakshmi's parents expressed their helplessness and when he demanded the amount deposited by name in the accounts of A1 and A2 and 45 sovereigns of gold jewels, they abused him and criminally intimidated. Therefore, this case came to be registered.

3.The learned counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case. In the case before hand, A1, A2 and A5 had already been arrested and released on bail. petitioners have no role whatsoever in the alleged cheating. Therefore, he seeks anticipatory bail to the petitioners/A3, A4 and A6.

4.The learned counsel appearing for the intervenor strongly opposed this petition on the ground that the petitioners had also actively involved in the cheating committed by the accused 1 and 2. In this regard, he also produced copy of the account details in support of the case that he was cheated to an extent of Rs.One Crore. Therefore, he prays for dismissal of this petition.

5.The learned Additional Public Prosecutor appearing for the respondent strongly opposed this petition on the ground that investigation is pending in this case.

6.A reading of the First Information Report and materials perused and the submission made by the learned counsel on either side that the allegation is that believing the first accused, who is the friend of the de-facto complainant, the de-facto complainant said to have deposited to the tune of Rs.One Crore in the account of A1 and A2. Of course, he claimed that he produced account statement. Another allegation is that it was promised to give A5 in marriage to the de-facto complainant and got 45 sovereigns of gold jewels. It is not known how the de-facto complainant had deposited into the accounts of A1 and A2 to the tune of Rs.One Crore only on the basis of his friendship. He claims that 45 sovereigns of gold jewels were purchased on his instructions by A1 and A2. So far there is no material produced in this regard. The prime accused 1, 2 and 5 had already been arrested and released on bail. The petitioners 3, 4 and 5 had no active role in the alleged case of cheating. The allegations and counter allegations on behalf of the petitioners and the de-facto complainant have to be tested only during trial by examining, relevant witnesses or by producing relevant documents. At this stage, while considering the grant of anticipatory bail, these vexed question cannot be gone into.

7.Considering all these facts and circumstances of the case and the fact that the prime accused had been arrested and released on bail, this Criminal Original Petition is dismissed as against the petitioners 1, 2 and 5.

8.In view of the above, the custodial interrogation of the petitioners 3, 4 and 6 is not necessary, hence, this Court is inclined to grant anticipatory bail to the petitioners 3, 4 and 6 with certain conditions:

9.Accordingly, the petitioners 3, 4 and 6 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 Court No.II, Dindigul, on condition that the petitioners 3, 4 and 6 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 3, 4 and 6 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

**[b]**the petitioners 3, 4 and 6 shall report before the respondent police, daily at 10.30 a.m., until further orders;



**[c]**the petitioners 3, 4 and 6 shall not tamper with evidence or witness either during investigation or trial;

**[d]**the petitioners 3, 4 and 6 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 petitioners 3, 4 and 6 in accordance with law as if the conditions have been imposed and the petitioners 3, 4 and 6 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]**;

[**f**]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
02/07/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

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 JUDICIAL MAGISTRATE NO.II, DINDIGUL.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE.
   DINDIGUL DISTICT.

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

4. THE ADDITIONAL PUBLIC PROSECUTOR,
   MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.2918 of 2021
Date : 02/07/2021



VB/VR/SAR.III/07.07.2021/4P/5C