



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/06/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.4201 of 2021

Sikkandar ... Petitioner/Accused No.5

Vs

The Inspector of Police,
Nagamalaipudukkottai Police Station,
Madurai District.
Crime No. 50 of 2021.

... Respondent/Complainant

For Petitioner : Mr.G.Thiruvarutselvan,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

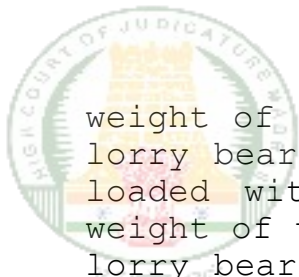
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.50 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 and 420 of IPC and Section 67 of the Information Technology Act, 2000 in Crime No.50 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the Manager of Pralcka Machinery Manufacturing Private Limited. There are four branches. This company is engaged in iron waste scrap which is being weighed in one JP Electronics run by one Pandi Kannan. Till 01.02.2021, the weight of the scrap is 80 tons. This being so, on 04.02.2021, one Abubakkar Siddiq from Coimbatore came to his company and wanted scrap. The rate of one ton scrap was fixed at Rs.33,000/-. On 06.02.2021, Abubakkar Siddiq, Raffiq, Mydeen Batsha came to their company and paid a sum of Rs.10,00,000/- and the lorry bearing Reg. No.TN 37 AH 2624, which was brought by them, was loaded with scraps. When it was weighed in JP Electronics, the

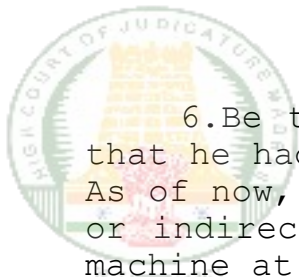


weight of the scrap was shown as 9.600 kg. On 08.02.2021 also, the lorry bearing Reg. No.TN 60 A 2853, which was brought by them, was loaded with scraps. When it was weighed in JP Electronics, the weight of the scrap was shown as 8.280 kg. Again on 10.02.2021, the lorry bearing Reg. No.TN 99 E 0106, which was brought by them, was loaded with scraps. When it was weighed in JP Electronics, the weight of the scrap was shown as 8.320 kg. After selling of 26.20 kgs of scraps, the balance stock would be 53.80 kgs. But, there was only 2 tons of scrap was available. Sanik Basha, who was working in JP Electronics, told the defacto complainant that when the lorries were brought by the accused for weighing the scraps, the weighing machine showed the different measurements. Having suspicious over the accused, the defacto complainant wanted Abubakkar Siddiq, Raffiq, Mydeen Batsha for weighing the scrap in different weighing machine and asked them to come to Nagari. But, the lorry did not come to Nagari. He asked that why the lorry had not come to Nagari, they replied that the lorry was going to Thuvarimaan and we would weigh in Thuvarimaan. The defacto complainant had also gone to Thuvarimaan. But, there also the lorry has not come and he was informed by the accused that the lorry went to Nagari. The defacto complainant went to Nagari with Abubakkar Siddiq. But, Abubakkar Siddiq had left the place in a car. Later, the defacto complainant was informed by the owner of JP Electronics that the accused had made some changes in the panel board using electronic chip and wires. That is why the machine showed different and lesser quantity of scraps. Therefore, this case came to be registered.

3.It appears that it has been wrongly given in FIR, the weight in Kgs insted of tonnes.

4.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner is no way connected with the alleged malpractice done by other accused in this case and infact, the petitioner is not shown as an accused in the FIR. The petitioner was implicated on the basis of the confession statement of the co-accused. In the confession statement, it is mentioned that the petitioner introduced the second accused to the first accused. There is nothing more to implicate this petitioner in this case. Therefore, he seeks anticipatory bail. It is his further submission that the co-accused A1 to A3 have been granted bail by the trial Court.

5.The learned Government Advocate(Crl.side) appearing for the respondnet police opposed this petition on the ground that the investigation is not completed. He further submitted that the co-accused A1 to A3 have been granted bail. But, since the accused did not comply with the conditions imposed by the trial Court, steps for cancelling bail is under process.



6. Be that as it may. The allegation against the petitioner is that he had only introduced the second accused to the first accused. As of now, there is no material produced to show that he is directly or indirectly involved of tampering of Panel Board in the weighing machine at JP Electronics.

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7. Considering the facts and circumstances of the case, the fact that the co-accused have been granted bail and the fact that the substantial part of the investigation should have been over by this time, this Court is inclined to grant anticipatory bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.IV, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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 conditions that:

[a] the petitioner 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 petitioner shall report before respondent police daily, at 10.30 am., until further orders;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner 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 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]**; and

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

sd/-
25/06/2021

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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 JUDICIAL MAGISTRATE NO.IV, MADURAI.
- 2.-DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
NAGAMALAIPUDUKKOTTAI POLICE STATION,
MADURAI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.4201 of 2021
Date :25/06/2021

SM
AE/AKM/SAR-II/07.07.2021/4P/5C