BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Twenty Second day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) Nos.4734 & 5252 of 2021

1. SABARINATHAN ... PETITIONER/ACCUSED NO.1 in Crl. OP.No.(MD)4734 of 2021

2. SURENDRAN ... PETITIONER/3rd ACCUSED in Crl. OP.No.(MD)5252 of 2021

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
THILLAI NAGAR POLICE STATION,
TRICHY CITY,
(CRIME NO. 206/2021) ... RESPONDENT/ COMPLAINANT

S.KALAISELVI ... PETITIONER/DE-FACTO COMPLAINANT
IN CRL MP(MD)Nos.3262 & 3331 OF 2021
IN CRL OP(MD).Nos.4734 & 5252 OF 2021

For Petitioner : Mr. Arunraj.K, Advocate
in Crl. OP.No.(MD)4734 of 2021

Mr.VENKATESH.D., Advocate
in Crl. OP.No.(MD)5252 of 2021

For Respondent : Mr.K.R.Bharathi Kannan,
Govt. Advocate (Crl. Side)
in both the petitions

For intervenor : Mr.Janarth Kumar.S, Advocate
in both the petitions

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

PRAYER :-

For Anticipatory Bail in Crime no. 206 of 2021 on the file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused Nos.1 and 3, apprehending arrest at the hands of the respondent police for the offences punishable under sections 417, 420, 406, 468 and 471 of I.P.C., in Crime No. 206 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is having a Saving Bank Account bearing No.50160014434381 in Bandhan Bank and a cheque book containing 20 cheque leaves commencing from 000001 to 000020 was issued to her. So far, the defacto complainant used only two cheque leaves containing bearing Nos.000001 and 000002. She was having a sum of Rs.19,95,160/- in the credit of her Saving Bank Account and she was investing her business income to this Bank account. Her family members are also having account in the said Bandhan Bank, which is a private bank. Because of old age, the defacto complainant was not able to go to the Bank frequently. Therefore, the staff from Bandhan Bank came to her resident and offered their services. The Bank officials, namely G.Surendran, Balaji and Krishna Prasad who is the Manager in that Bank and the defacto complainant and she utilised their services for banking transactions. Due to some reason, the defacto complainant wanted to close her bank account to some other bank and hence, she informed this to the Bank Manager Krishna Prasad in the month of August 2019. For that, the said G.Surendren and Balaji took 18 cheques from her for making arrangements to get her account transfered. She has not signed in the cheque leaves at the time of handing over the cheque book containing 18 unfilled cheques. Subsequently, the Bank Manager Anuradha convinced the defacto complainant that they would pay higher interest and requested her to continue the account with Bandhan Bank and the defacto complainant has also accepted and requested her bank pass book to be returned. When the defacto complainant wanted to make entry in the pass book, she was informed that the machine was not working. Having suspicious over this, she sent her son to enquire about her account. On 07.01.2021 when her son has enquired the issue, it was informed that a sum of Rs.16,00,000/- was transferred to R.Paramasivam by using cheque leaf bearing Cheque No.000005 on 06.10.2020 by forging the defacto complainant's signature. Hence, the defacto complainant has complained this to the said Anuradha and she informed the defacto complainant that whenever a cheque sent for clearance for more than a sum of Rs.3,00,000/-, she would get message from the Head Office, only then permission will be given for clearance, but, she has not received any such message from her Head Office it shows that without following the formal procedure and with an intention to cheat, the Bank officials namely Anuradha, Balaji and other staff have conspired together and cheated her to the tune of Rs.16,00,000/-. Therefore, this case came to be registered.

3.The learned counsel for the first accused/ Sabarinathan submitted that he is no way involved in the offence. He is only an Office Assistant in the Bandhan Bank. As Office Assistant, there is no possibility to cheat the defacto complainant to the tune of Rs.16,00,000/- by using a cheque. Therefore, he seeks anticipatory bail to this petitioner.

4.The learned counsel for the third accused/Surendran submitted that this petitioner has resigned his job as early as on 13.03.2019 and therefore, there is no possibility for him to involve in this particular fraudulent transaction. He has been falsely implicated in this case. Therefore, he seeks anticipatory bail to this petitioner. In alternative, he has also submitted that the petitioner is earning a sum of Rs.60,000/- in a bank namely Equitas Small Finance Bank Ltd., as an employee and his wife is working as a Assistant Manager in Indian Overseas Bank. To show his bona fide, he is prepared to pay a sum of Rs.5,00,000/- in the Court deposit. Hence, he seeks anticipatory bail to this petitioner.

5.The learned counsel appearing for the intervener submitted that the second accused in this offence namely Paramasivam was arrested. It is seen from his confession statement that the first accused, Sabarinathan was actually involved in cheating the defacto complainant. He further submitted that the amount involved in this offence is Rs.16,00,000/-. If the petitioners are released in anticipatory bail, it will be difficult for the defacto complainant to recover the amount in dispute. Therefore, he opposed to grant anticipatory bail to the petitioners.

6.The learned Government Advocate (crl.Side) appearing for the respondent police would submit that investigation is pending.

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

8.Admittedly, the defacto complainant is having account with Bandhan Bank, in which, these petitioners were working. It is submitted by the learned counsel for the first accused that he was relieved from the Bank in the month of May 2020 itself. The entire allegation in the FIR shows that systematically, a sum of Rs.16,00,000/- was robbed by the accused persons from the defacto complainant's account. Without going into the merits of the case, considering the fact that the investigation is at preliminary stage and also the fact that the first accused is the prime accused for commission of the crime, this Court is not inclined to grant anticipatory bail to the first accused. However, considering the offer made by the learned counsel appearing for the third accused / Surendran that he is prepared to deposit a sum of Rs.5,00,000/- to the credit of the Crime No.206 of 2021 before the concerned Court,this Court is inclined to grant anticipatory bail to the third accused namely Surendran.

9.In view of the above, these petitions are allowed in part. Anticipatory bail in respect of the first accused is dismissed and in respect of third accused, is granted.

10. Accordingly, the petitioner/3rd accused in Crl.O.P(MD). No.5252 of 2021 is directed to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) to the credit of Crime No.206 of 2021 within a period of two weeks from the date of receipt of a copy of this order without prejudice to his rights and contentions before the concerned Magistrate. On such deposit, the petitioner/3rd accused in Crl.O.P(MD).No.5252 of 2021 is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.IV, Trichy, within a period of fifteen days from the date of receipt of a copy of this order, on his executing 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 said Magistrate and on further condition that:

[a] the petitioner/3rd accused 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/3rd accused shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioner/3rd accused shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner/3rd accused 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 the petitioner/3rd accused 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]**.

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

sd/-
22/04/2021

/ TRUE COPY /

/ /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 JUDICIAL MAGISTRATE NO.IV
   TRICHY.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
   TRICHY.

3. THE INSPECTOR OF POLICE,
   THILLAI NAGAR POLICE STATION,
   TRICHY CITY,

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

+1. CC to M/S.VENKATESH.D. Advocate SR.No.3379

ORDER
IN
CRL OP(MD) Nos.4734 &
5252 of 2021
Date :22/04/2021

AMS/PN/SAR-4/29/04/2021/5P/6C