



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

Reserved on	Pronounced on
19.07.2021	27.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) .Nos.5464 and 1876 of 2021

Crl.O.P. (MD)No.5464 of 2021:

K.Kalanjiyam

... Petitioner/Accused A4

Vs

The State rep.by,
The Sub Inspector of Police,
Nachiyarpuram Police Station,
Tirupathur Taluk,
Sivagangai District.
Crime No.29 of 2021.

... Respondent/Complainant

A.Chidambaram

...Petitioner/Proposed 2nd respondent
/De-facto Complainant
in CRL.M.P.NO.3371 of 2021 in
CRL.O.P. (MD) .No.5464 of 2021.

For Petitioner : Mr.N.Ananthapadmanabhan,
Advocate.

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

For Intervenor : Mr.G.R.Satish
Advocate.

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

PRAYER :-For Anticipatory Bail in Crime No.29 of 2021 on the file of
the Respondent Police.



Crl.O.P. (MD)No.1876 of 2021:

The State represented by,
The Inspector of Police,
CBCID,
Sivagangai District.

(Crime No.01 of 2020) ... Petitioner/3rd Party/Complainant
(The investigation of the above Crime No.is
transferred to CBCID, Sivagangai vide order
in CRL.O.P.(MD)No.9175 of 2019, dated 10.02.2020)

Vs

K.K.Kalangiam

... Respondent/Petitioner/accused

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

PETITION FOR Cancellation of Anticipatory Bail Under Sec.439(2) of Cr.P.C

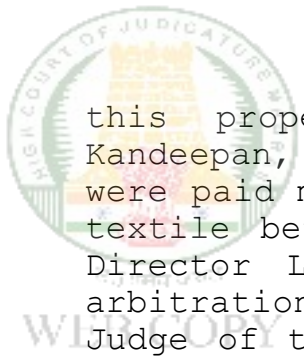
PRAYER :-Seeking to cancel the anticipatory bail granted to the respondent in Crl.M.P.No.437 of 2019, dated 22.02.2019 on the file of the learned Principal Sessions Judge, Sivagangai and commit him to judicial custody.

COMMON ORDER : The Court made the following order :-

The petitioner in Crl.O.P.(MD)No.5464 of 2021/A.4, apprehending arrest at the hands of the respondent police for the alleged offence punishable under section 436 I.P.C., in Cr.No.29 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The petitioner in Crl.O.P.(MD)No.1876 of 2021 has filed this petition seeking to cancel the anticipatory bail granted to the respondent/accused in Crl.M.P.No.437 of 2019, dated 22.02.2019 on the file of the learned Principal Sessions Judge, Sivagangai and commit him to judicial custody.

3. The case of the prosecution in Cr.No.24 of 2019 is that the defacto complainant is the Managing Director of M/s Kathirvel Textiles Private Limited for the past eight years. This textile is closed for the past five years due to shortage of raw materials. The machineries viz., (1) NSE Blow room (1 No.); (2) L.R.Card C1/2 (3 Nos); (3) LR DO/2 S Drawing (4 Nos); (4) " Texmaco Howa" RM 100 Simplex (1 No); (5) "Texmaco Howa" RME 100 Simplex (1 No); (6) "Texmaco Zinger Ring Frame (6 Nos); (7) Tex Tool 5 Hs Ring Frame (6 Nos); (8) Tex Tool RT 95 Cone Winder (3 Nos); (9) Commins 250 KVA Generator (1 No), building, land to an extent of 27 acres, 3500 teak trees, 2000 red sander trees are in the property. To safeguard



this property, he employed the accused Kandeepan. Through Kandeepan, the accused Ganesan and Raghavan were employed. They were paid monthly salary. There was a dispute with regard to this textile between the defacto complainant and the previous Managing Director Laxmanan Chettiar and his legal heirs. Therefore, an arbitration was conducted in Ar.O.P.No.142 of 2016, by the former Judge of this High Court. Due to this case and for certain other personal commitments, the defacto complainant has to stay in Chennai. He heard that Kalanjiyam, who was the former employee of Kathirvel Textiles was trying to trespass into the property with the help of his hirelings. Therefore, he filed a petition before the Arbitrator and got an injunction order against the said Kalanjiyam. On 24.11.2018, he visited Kathirvel Textiles along with his Advocates, brother-in-law Saravanan. Kandeepan alone was in the textiles, when they visited the textile. Kandeepan talked about the salary due. Then he handed over the key and informed that he wants to go home in connection with urgent work and left. After getting the key and making inspection, the defacto complainant found that the machineries viz., " Texmaco Howa" RM 100 Simplex - 2 nos. and Texmaco Zinger Ring Frame - 6 nos., were found missing. Since there was no electricity, the complete details could not be gathered. The next day, complete inspection was made and found that the machineries viz., (1) " Texmaco Howa" RM 100 Simplex (2 nos); (2) "Texmaco Zinger Ring Frame (6 Nos); (3) Tex Tool 5 Hs Ring Frame (6 Nos); (4) Commins 250 KVA Generator (1 No), (5) Aluminium Drums with Spring and further 5828 spindle machine were found missing. The value of the machineries stolen is more than Rs.2,00,00,000/-. Therefore, this case came to be registered.

4. The case of the prosecution in Cr.No.29 of 2021 of Nachiyarpuram Police Station is that the defacto complainant is the Managing Director of Kathirvel Textiles. There was a theft of machineries in the mill in 2019 and a criminal case investigation is being done by the CBCID police. So mill was kept closed. Then the mill was sought for lease. The defacto complainant accepted their request and making arrangements for running the mill by the lessees. On 31.03.2021, at about 04.45a.m., the watchman found that the cotton kept in the mill premises was burning. It was informed to the Fire Service Department and they came and doused the fire. It appears that some one had mischievously set fire to the machineries and cotton. The value of the damage is Rs.10,00,000/-. Therefore, this case came to be registered.

5. The State has filed a petition in Crl.O.P.(MD)No.1876 of 2021 for cancelling the anticipatory bail granted to the accused K.K.Kalanjiyam by the learned Principal Sessions Judge, Sivagangai in Crl.M.P.No.437 of 2019, on 22.02.2019. K.Kalanjiyam has filed a petition in Crl.O.P.(MD)No.5464 of 2021 seeking anticipatory bail. The defacto complainant filed an intervening petition in Crl.M.P. (MD)No.3371 of 2021 in Crl.O.P.(MD)No.5464 of 2021.



6. The learned Counsel for the petitioner - K.Kalanjiyam who is the accused in both cases placed his submissions in both the petitions and submitted that the petitioner-K.Kalanjiyam is a trade union leader in Kathirvel Textiles. This case is foisted purely for implicating the petitioner-K.Kalanjiyam in a false case to prevent him from performing his duties and responsibilities as trade union leader. In fact, it was the petitioner-K.Kalanjiyam, who had given complaint in Cr.No.17 of 2016, for the alleged theft, criminal breach of trust and cheating against the defacto complainant and others. In Cr.No.24 of 2019, after considering the materials and finding that there is no *prima facie* case made out against the petitioner-K.Kalanjiyam, the learned Principal Sessions Judge, Sivagangai had granted anticipatory bail. Later, the defacto complainant filed Crl.O.P.(MD)No.3869 of 2019 for cancelling the anticipatory bail given by the learned Principal Sessions Judge, Sivagangai. Finding that there was no merits, that petition was closed. Then, the defacto complainant filed a petition in Crl.O.P.(MD)No.9175 of 2019, for transferring the investigation from Nachiyarpuram Police Station to CBCID and transfer was ordered. Subsequently, the investigation was taken over by the CBCID. While the investigation is pending, another false case was given by the defacto complainant and that was registered in Cr.No.29 of 2021 alleging that some machineries and cotton had been destroyed in fire by mischief committed by the accused. The petitioner-K.Kalanjiyam is no way involved in any of these offences. Kandeepan has given a statement that he was forced to give false statement implicating the petitioner. Several cases are pending against the defacto complainant. After securing anticipatory bail in Cr.No.24 of 2019, he has been regularly complying the conditions. He was tested positive for COVID-19 and his wife died due to COVID-19. He sent his explanation to the Investigating Officer, in response to the summons issued to him. A report of the Fire Service Officer shows that there was no message received from Fire Service department with regard to the fire incident in Kathirvel Textiles on 31.03.2021. Therefore, he seeks to release the petitioner-K.Kalanjiyam in Cr.No.29 of 2021 and prays for dismissal of the petition filed for cancellation of anticipatory bail granted in Cr.No.24 of 2019.

7. The learned Counsel appearing for the defacto complainant in Cr.No.29 of 2021 strongly opposes this petition on the ground that the petitioner-K.Kalanjiyam is, right from the beginning, causing obstruction to the smooth running of Kathirvel Textiles, taking advantage of his position in the union. Though he has given a complaint in Cr.No.17 of 2016, that complaint turned to be a false complaint and therefore, that complaint was closed as a mistake of fact. Subsequently, when the accused had stolen machineries from Kathirvel Textiles, a complaint in Cr.No.24 of 2019 was registered and the investigation was done by Nachiyarpuram Police station. The Nachiyarpuram police station has not shown any interest in the case. The accused and apprehended them and proceed with the

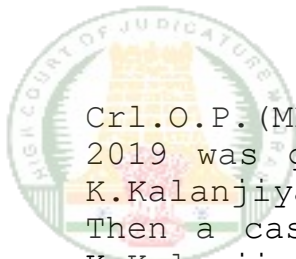


case. On the petition filed by the defacto complainant, the investigation was transferred to CBCID. Thereafter, the case in Cr.No.29 of 2021 was registered for setting fire to cotton and machineries. The petitioner-K.Kalanjiyam is the main accused in both cases. Unless he is arrested, no progress could be made in this case. The petitioner-K.Kalanjiyam was acting at the behest of Laxmanan Chettiar - former Managing Director in the beginning. In fact, the defacto complainant got an order against the petitioner - K.Kalanjiyam in Arbitration O.P.No.142 of 2016 that he should not interfere with the affairs of the kathirvel Textiles. Dispute between the rival claimants to the management of the Textiles had been resolved. Even thereafter, he is causing hindrance for the smooth running of Kathirvel Textiles by indulging in criminal activities. Unless petitioner is arrested and interrogated, stolen machineries could not be recovered and the culprits who set the fire and other accused involved cannot be identified. Therefore, he seeks dismissal of this petition in Crl.O.P.(MD)No.5464 of 2021.

8. The learned Government Advocate(Crl.Side) appearing for the State supports the case of the defacto complainant by stating that this case was transferred to CBCID. Taking advantage of the anticipatory bail granted by the learned Principal Sessions Judge, Sivagangai, the petitioner is not co-operating with the investigation. Therefore, the CBCID is struggling to conduct and complete the investigation and they are not able to secure the stolen machineries. In the said circumstances, the custodial interrogation of the petitioner-K.Kalanjiyam is necessary. Therefore, the learned Government Advocate (Crl.side) appearing for the State seeks cancellation of anticipatory bail granted in favour of the petitioner-K.Kalanjiyam in Cr.No.24 of 2019. It is also submitted that from the confession made by the co-accused, it came to be known that the petitioner-K.Kalanjiyam was the person who instigate them to set fire to the cotton and machineries. Therefore, he seeks dismissal of this petition in Crl.O.P.(MD)No.5464 of 2021.

9. Heard the learned Counsel for the petitioner, the learned Counsel for the intervenor and the learned Government Advocate (Crl.Side) appearing for the State and perused the materials placed on record.

10. From the narration of facts and materials produced, it is seen that there was a dispute between two groups, one headed by the defacto complainant and other headed by the former Managing Director Laxmanan Chettiar with regard to the management of Kathirvel Textiles. The petitioner-K.Kalanjiyam was earlier acting at the behest of Laxmana Chettiar. He had given a complaint in Cr.NO.17 of 2016 alleging the theft of machineries, criminal breach of trust and cheating. Later it was found that the allegation made in the complaint was not true and therefore, that FIR was closed as mistake
<https://hcservices.ecourts.gov.in/hcservices/04.2016>. Regarding this, an order was passed in



Crl.O.P.(MD)No.18242 of 2018. Subsequently, a case in Cr.No.24 of 2019 was given by the defacto complainant against the petitioner-K.Kalanjiyam and others alleging the theft of aforesaid machineries. Then a case in Cr.No.29 of 2021 was given against the petitioner-K.Kalanjiyam and others. It is the case of the prosecution that he was the person responsible for setting fire to cotton and machineries. The value of the damage is Rs.10,00,000/-. Both parties have filed materials in support of their case. The materials had been perused. Admittedly, the machineries, which said to have been stolen, are not yet recovered. It is the case of the prosecution that the petitioner-K.Kalanjiyam was the one who was involved in stealing the machineries and later abetting other accused to set fire to cotton and machineries. In the said circumstances, the petitioner-K.Kalanjiyam, being the main accused in this case, this Court is of the considered view that his custodial interrogation is absolutely necessary. Unless he is taken into custody and interrogated, there is no possibility of recovering the stolen machineries and unearthing the mystery behind the burning of cotton. There is a specific mention from the learned Government Advocate(Crl.Side) that taking advantage of the anticipatory bail, the accused K.Kalanjiyam is not co-operating with the enquiry. It is also alleged that petitioner-K.Kalanjiyam forced the co-accused to retract from their earlier statements. It shows that petitioner-K.Kalanjiyam is trying to interfere with the course of investigation. The contention that Kandeepan was forced to give statement against the petitioner is to be tested only in the course of trial. Taking note of all these aspects, this Court cancels the anticipatory bail granted to the petitioner - K.Kalanjiyam in Crl.M.P.No.437 of 2019, by the learned Principal Sessions Judge, Sivagangai and dismiss the petition in Crl.O.P.(MD)No.5464 of 2021 seeking anticipatory bail. Accordingly **Crl.O.P.(MD)No.1876 of 2021 is allowed and Crl.O.P.(MD)No.5464 of 2021 is dismissed.** In view of the cancellation of anticipatory bail granted to the petitioner-K.Kalanjiyam in Crl.M.P.No.437 of 2019, by the learned Principal Sessions Judge, Sivagangai, the police authorities are directed to take steps to secure the petitioner-K.Kalanjiyam and remand him into judicial custody for facing the trail.

sd/-

27/07/2021

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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.

<https://hcservices.ecourts.gov.in/hcservices/>



TO

1 THE PRINCIPAL SESSIONS JUDGE,
SIVAGANGAI

2 THE SUB INSPECTOR OF POLICE,
NACHIYARPURAM POLICE STATION,
TIRUPATHUR TALUK,
SIVAGANGAI DISTRICT.

3 THE INSPECTOR OF POLICE,
CBCID,
SIVAGANGAI DISTRICT.

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

+2. CC to M/S.APN LAW ASSOCIATES, Advocate. SR.No.4846 and 4847.

ORDER
IN
CRL OP (MD) .Nos.5464
and 1876 of 2021
Date :27/07/2021

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MK/JC/SAR.I/30.07.2021/7P/7C