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CRL.OP (MD) Nos.5462 and 5464 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 02.06.2021

DELIVERED ON: 03.06.2021

PRESENT

The Hon'ble Mr.Justice N.ANAND VENKATESH

CRL.OP (MD) Nos.5462 and 5464 of 2021

and

CRL.MP (MD) No.3371 of 2021

in

CRL OP (MD) No.5464 of 2021

(Through video conferencing)

1.L.Kaandeeban

2.P.N.Ganesan,

.. Petitioners/Accused 1 & 2
in CRL OP (MD) No.5462/2021

K.Kalanjiyam

.. Petitioner/Accused No.4
in CRL OP (MD) No.5464/2021

Vs

State through,
The Sub-Inspector of Police,
Nachiyarpuram Police Station,
Thirupathur Taluk,
Sivagangai District.
In Crime No.29/2021.

.. Respondent/Complainant
in both Petitions

In both cases:

For Petitioners : Mr.N.Ananthapadmanabhan
for M/s.APN Law Associates

For Respondent : Mr.S.Ravi
Additional Public Prosecutor

For Intervenor
in CRL OP (MD) 5464/2021 : Mr.G.R.Sathish, Advocate

PETITIONS FOR **ANTICIPATORY BAIL** Under Sec.438 of Cr.P.C.



COMMON PRAYER :-

For Anticipatory Bail in Crime No.29 of 2021 on the file of the respondent police.

COMMON ORDER

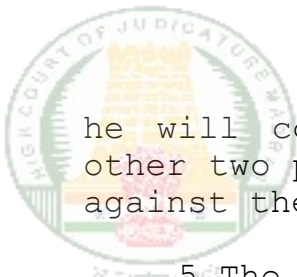
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The petitioners/Accused Nos.1,2 & 4 apprehending arrest at the hands of the respondent police for the offences punishable under Sections 120B, 109 r/w 436 of IPC., in Crime No.29 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that on 31.03.2021, a compliant came to be given by the defacto complainant to the effect that he is the Managing Director of a Textile Mill and some miscreants had entered the Mill and set fire to the cotton materials kept inside the Mill. The defacto complainant suspected the petitioners and one other named accused person to be involved in the said crime. Based on his complaint, an FIR came to be registered in Crime No.29 of 2021 for an offence under Section 436 of IPC. The respondent police, in the course of investigation interrogated one Pandi and based on his confession statement, an alteration report came to be filed and the offence was altered under Section 120B, 109 r/w 436 of IPC. The said Pandi is said to have made a confession to the effect that the crime was committed on the instigation of the petitioner in Crl.O.P. (MD).No.5464 of 2021. The other two petitioners in Crl.O.P.(MD).No.5462 of 2021 have been added as accused based on suspicion.

3. The learned counsel appearing for the petitioners submitted that the petitioner in Crl.O.P.(MD).No.5464 of 2021 belongs to INTUC Employees Union and he is presently the State General Secretary of INTUC. The learned counsel further submitted that there was a dispute between the employer and the employees of the Mill and the petitioner was actively involved in the discussions on behalf of the employees. The learned counsel further submitted that the machinery worth more than three crores went missing from the premises and the petitioner even lodged a complaint before the police which was registered as Crime No.17 of 2016 for an offence under Section 380 of IPC. It was submitted that the defacto complainant is an influential person and he managed to get the FIR closed as 'mistake of fact' and a protest petition has also been filed and the same is pending.

4. The learned counsel further submitted that there are several complaints pending against the defacto complainant and the defacto complainant has also given false complaints against the petitioner which resulted in an earlier FIR in Crime No.24 of 2019. It was submitted that the petitioner has been falsely implicated in this case and considering his status, he will not flee from justice and



he will co-operate at the time of investigation. Insofar as the other two petitioners are concerned, there is absolutely no material against them and they have been implicated merely on suspicion.

5. The learned Additional Public Prosecutor, based on the status report filed by the respondent police, submitted that the earlier FIR registered in Crime No.24 of 2019 has subsequently been transferred for investigation to the CBCID by virtue of the orders passed by this Court in Crl.O.P.(MD).No.9175 of 2019. The learned Additional Public Prosecutor submitted that even though the petitioner in Crl.O.P.(MD).No.5464 of 2021 had obtained anticipatory bail in that case, steps have been taken to cancel the anticipatory bail and the petition is pending before this Court.

6. The learned Additional Public Prosecutor further submitted that the respondent police were investigating Crime No.28 of 2021 for an occurrence where the accused persons were involved in getting into the police station premises and setting fire to the Tractor. One Pandi was arrested in this case and during the course of interrogation, he is said to have confessed that fire was set in the Mill only on the instigation of the petitioner in Crl.O.P.(MD).No.5464 of 2021. The learned Additional Public Prosecutor further submitted that the involvement of the petitioner is suspected even in Crime No.28 of 2021. The investigation is at a crucial stage and custodial interrogation of the petitioner in Crl.O.P.(MD).No.5464 of 2021 is very much required in the present case.

7. The learned counsel appearing on behalf of the defacto complainant/intervenor submitted that the petitioner in Crl.O.P.(MD).No.5464 of 2021 is repeatedly involved in offences against the Textile Mill. Earlier, he had stolen certain machineries and later he has gone to the extent of setting on fire the cotton materials inside the Mill. The learned counsel further submitted that the Mill was not functioning from the year 2018 onwards and therefore, steps were taken to run the Mill by leasing the property to some third parties. However, the petitioner wants to somehow prevent the Mill from functioning and therefore, he is involved in repeated criminal activities. The learned counsel further submitted that the petitioner is the brain behind the entire occurrence and since he is a habitual offender, he will involve in further offences in future also and therefore, the anticipatory bail petition is liable to be dismissed by this Court.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. There is a longstanding dispute in running the Textile Mill and the same has resulted in various complaints. One of the complaint is now under investigation conducted by CBCID. The petitioner in Crl.O.P.(MD).No.5464 of 2021 has been roped in as an



accused based on the confession given by one Pandi. Insofar as the other two petitioners in Crl.O.P.(MD).No.5462 of 2021 is concerned, they are only in the realm of suspicion and no materials have been shown against them. It is also seen that the CBCID, Sivagangai has already filed a petition for cancellation of the anticipatory bail granted in favour of the petitioner in Crl.O.P.(MD).No.5464 of 2021 in the earlier case and the same is pending before this Court in Crl.O.P(MD).No.1876 of 2021.

10. In view of the above, it will be more appropriate, if the anticipatory bail petition filed in Crl.O.P.(MD).No.5464 of 2021 is kept pending and is posted along with Crl.O.P.(MD).No.1876 of 2021 which has been filed for cancellation of anticipatory bail granted in favour of the petitioner.

11. The petitioner in Crl.O.P.(MD).No.5464 of 2021 shall execute a personal bond for a sum of Rs.10,000/- before the respondent police and shall appear before the respondent police on every Monday, Wednesday and Friday at 11.00 a.m., until further orders are passed by this Court. Subject to the compliance of this condition, the petitioner shall not be arrested by the respondent police until further orders.

12. Insofar as the petitioners in Crl.O.P.(MD).No.5462 of 2021 is concerned, they have been roped in as accused only based on suspicion and hence, this Court is inclined to grant anticipatory bail to those petitioners on certain conditions.

13. Accordingly, the petitioners in Crl.O.P.(MD).No.5462 of 2021 are ordered to be released on bail in the event of arrest by the respondent police on executing personal bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a likesum to the satisfaction of the respondent police and on further condition that the petitioners shall appear before the learned Judicial Magistrate, Thirupathur and execute a fresh personal bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a likesum to the satisfaction of the concerned Judicial Magistrate, within a period of one month, from the date of resumption of regular work in subordinate Courts in view of the present pandemic situation and on further conditions that:

[a] 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 shall report before the respondent police on every Friday at 11.00 a.m., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;



[d]the petitioners shall not tamper with evidence or witness 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 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 229A IPC.

14. In the result, Crl.O.P (MD).No.5462 of 2021 stands allowed and Crl.O.P. (MD).No.5464 of 2021 shall be posted along with Crl.O.P. (MD).No.1876 of 2021 on 05.07.2021.

sd/-

03/06/2021

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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, THIRUPATHUR,
SIVAGANGAI DISTRICT.
2. -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
3. THE SUB-INSPECTOR OF POLICE,
NACHIYARPURAM POLICE STATION,
THIRUPATHUR TALUK, SIVAGANGAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL.OP (MD) Nos.5462 and 5464 of 2021 and
CRL.MP (MD) No.3371 of 2021 in

CRL OP (MD) No.5464 of 2021

Date :03/06/2021

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