BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated : 02.11.2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) No.6091 & 7170 of 2021

RAMESH ... PETITIONER / ACCUSED No.5 IN CRL OP(MD) No.6091 of 2021

SEYAD ALI ... PETITIONER / ACCUSED No.2 IN CRL OP(MD) No.7170 of 2021

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
E.O.W., POLICE STATION,
NAGERCOIL, KANYAKUMARI.
(CRIME NO.1 OF 2021) ... RESPONDENT/ COMPLAINANT IN BOTH PETITIONS

For Petitioner : M/S.N.RANJITH, Advocate
(IN CRL OP(MD) No.6091 of 2021)
M/S.A.BALAKRISHNAN, Advocate
(IN CRL OP(MD) No.7170 of 2021)

For Respondent : MR.T.SENTHILKUMAR,
ADDITIONAL PUBLIC PROSECUTOR
(IN BOTH PETITIONS)

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

COMMON PRAYER:-
For Anticipatory Bail in Crime No.1 of 2021 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners before this Court are A2 & A5 in Crime No.1 of 2021 on the file of the respondent police, which was registered for the offence under Sections 406, 420 & 120(b) IPC and Section 5 of TNPID Act, 1997 and Sections 3, 5 & 21 of Banning of Unregulated Deposit Scheme Act, 2019. The petitioners are apprehending arrest at the hands of the respondent police in connection with the said case and therefore, they have filed these applications for anticipatory bail.

2.The prosecution case is that the petitioners and other accused approached the defacto complainant, introduced themselves as Directors of one Unique Asset Promoters and Estates India Ltd., floated several schemes for high returns and induced the defacto complainant to join the schemes. Believing their words, the defacto complainant joined the scheme in three different accounts and deposited a sum of Rs.1,23,000/-. When the defacto complainant approached the accused persons for return of money, they refused to repay the same and have also closed the company. Hence, the complaint.

3.Learned Additional Public Prosecutor, on instructions, submitted that so far they have received complaints from around 435 people and they are expecting several complaints in this regard.

4.During the course of arguments, learned Counsel for the petitioners submitted that the first accused Company is having 35 acres of land and a sum of Rs.62 Lakh in the bank account and they are ready to co-operate with the investigation and to settle the depositors.

5.In view of the aforesaid submission made by the petitioners' Counsel, this Court has granted interim protection to the petitioners and directed them to co-operate for the enquiry.

6.Learned Additional Public Prosecutor has filed a report of the investigating officer that the petitioners co-operated for the enquiry and have stated that the Company has collected Rs.65 Crore from 45,500 depositors and settled 43,500 depositors to the tune of Rs.60 Crore. The petitioners further claimed that 2000 depositors alone are yet to be settled for a tune of Rs.5 Crore. Though the petitioners have claimed so, they have not produced the list of depositors, settled particulars and other details.

7.The investigating officer, in his report, has further stated that a sum of Rs.62,50,000/- is available at the Company's bank account at HDFC Bank, Nagercoil, in A/c.No.50200000719338, which was freezed by them. Apart from the same, they have identified 35 Acres of land vide Nasareth Sub-Registrar Office Doc.Nos.911 to 918/2014 and Thisayanvilai Sub-Registrar Office Doc.No.4680/2012, standing in the name of the accused Company.

8.Learned Counsel for the petitioners admitted that they have settled around 43,500 depositors to the tune of Rs.60 Crore and 2000 depositors are yet to be settled to the tune of Rs.5 Crore. They further admitted that first accused Company is having lands to an extent of 35 Acres, valuing about Rs.4 Crore approximately and a sum of Rs.62,50,000/- is available at the Company's bank account which was freezed by the investigating agency. They have also filed affidavits of the petitioners expressing their willingness to utilize these funds to settle the depositors, for which purpose, they requested this Court to appoint a Commissioner. In order to meet the expenditure of the Commissioner, the petitioners undertook to pay a sum of Rs.5,00,000/- [Rupees Five Lakh only].

9.Considering the nature of offence, the affidavit filed by the petitioners that they would co-operate with the investigation and that they would settle the amount to the depositors, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

1) This Court appoints Advocate Mr.T.Lajapathi Roy [Enrol.No.855/88], as Commissioner for settling the issue.

2) The petitioners, as agreed, shall deposit a sum of Rs.5,00,000/- to the credit of these criminal original petitions before the Registry of this Court, forthwith, to meet the remuneration charges and other incidental charges of the learned Commissioner.

3) The learned Commissioner shall appoint any person(s) of his choice for secretarial assistance.

4) A dedicated mobile number and an e-mail ID shall be opened exclusively by the learned Commissioner.

5) A savings bank account shall be opened by the learned Commissioner and he is authorised to manage the account. Once such an account is opened, the sum of Rs.5,00,000/- deposited by the petitioners to the credit of these Criminal Original Petitions shall be transferred by the Registry to the Commissioner's account, upon a letter / memo being given by the learned Commissioner. The learned Commissioner shall utilize this amount to meet his remuneration and other incidental expenses, including boarding and lodging. The remuneration to the learned Commissioner is fixed as Rs.1,00,000/- per month.

6) If the learned Commissioner is in short of any funds to meet the remuneration and other incidental expenses, he shall utilize the amount lying in the first accused - Company's bank account at HDFC Bank, Nagercoil, in A/c.No.50200000719338, which was freezed by the investigating agency.

Petitioners:

7) The petitioners are directed to disclose the details of all the subscribers / customers / depositors, etc., including both the settled and non-settled list, to the learned Commissioner.

8) The petitioners are also directed to furnish the details of the properties, assets, bank balance, deposits, etc., standing in the name of the first accused Company; in their names and other accused; and also in the names of their family members to the learned Commissioner.

9) The petitioners are to effect paper publication in two leading Tamil Daily and one leading English Daily about the proceedings before the learned Commissioner. The paper publication has to be vetted by the learned Commissioner.

10) The petitioners are directed to appear before the learned Commissioner once in a month, ie., in the first week of every month.

Investigating Agency:

11) The investigating agency is directed to furnish the list of subscribers / customers / depositors; property details [so far identified and the ones, who are yet to be identified] and bank accounts [so far identified & freezed and the ones, who are yet to be identified] of the accused, their family members and staff, along with other particulars collected by them to the learned Commissioner.

12) The investigating agency is also directed to keep on updating the learned Commissioner about the investigation and subscribers list, periodically.

13) The investigating officer is expected to render his fullest co-operation to the learned Commissioner.

Defacto complainant:

14) The defacto complainant is also at liberty to submit the details of the subscribers / customers / depositors as well as the properties and bank balances of the accused before the learned Commissioner.

15) The defacto complainant and / or any other depositor(s), who have been cheated by the accused are at liberty to approach the learned Commissioner, either in person or through the dedicated mobile number / e-mail ID created by the learned Commissioner in such regard.

General Directions:

16) The learned Commissioner, after collecting the particulars from all quarters, is to identify the subscribers / customers / depositors and after due verification of their identification and genuineness of the documents, derive the amount of disbursement to each subscribers / customers / depositors, who are yet to be settled.

17) The learned Commissioner is also expected to verify the settled list, as claimed by the petitioners.

18) The learned Commissioner is permitted to identify the properties standing in the name of the accused-company, the

petitioners, other accused, their family members and staff, through such modes as they deem fit.

19) The petitioners / accused shall disburse the amount to each subscriber / customer / depositor, as arrived by the learned Commissioner, through the TNPID Court, Madurai.

20) For the purpose of disbursement, the learned Commissioner shall utilize the funds lying in the first accused Company's bank account at HDFC Bank, Nagercoil, in A/c.No.50200000719338, which was freezed by the investigating agency.

21) The learned Commissioner is also permitted to sell the properties standing in the name of the accused-company, the petitioners, other accused, their family members and staff, including the ones which were already identified by the investigating agency, in the open market either by private negotiation or public tender for more consideration, as he deems fit, which amount shall be utilized to settle the subscribers / customers / depositors.

22) The jurisdictional District Revenue Officers and Superintendents of Police / Commissioners of Police concerned are directed to provide all necessary assistance to the learned Commissioner for visiting the properties of the accused and in the course of their sale.

23) Since the District Revenue Officer is the competent authority and custodian of the properties attached as per the TNPID Act, the accused shall give authorisation to the jurisdictional District Revenue Officers to execute the sale of the properties on their behalf. The Sub-Registrars concerned shall register the documents submitted by the District Revenue Officers regarding the properties of the above crime number, without raising any queries. The District Registrars are directed to issue necessary instructions in this regard to the Sub-Registrars concerned.

24) The learned Commissioner is expected to complete the entire proceedings as expeditiously as possible, preferably, within a period of three months from the date of formation.

10.For any clarification / modification of the aforesaid terms of reference, it is open to the parties concerned to approach this Court. It is made clear that in the event of any non-compliance of the aforesaid terms on the part of the petitioners, the anticipatory bail granted would be cancelled and the learned Commissioner is at liberty to bring to the notice of this Court about any such non-compliance.

11.Subject to the aforesaid terms of reference, anticipatory bail is granted to the petitioners and they 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 Judge, TNPID Court, Madurai, on condition that they shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judge concerned.

12.Apart from the above, the following conditions are also imposed:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or bank pass book to ensure their identity;

[b] the petitioners / accused shall appear before the respondent police on every Monday at 10.30 a.m., until further orders;

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

[d] the petitioners / accused shall not abscond either during the investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Judge / Trial Court is entitled to take appropriate action against the petitioners / accused in accordance with law as if the conditions have been imposed and they have been released on bail by the learned Judge / 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 / petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

13. In the result, both the criminal original petitions are allowed in the above terms.

Post the matters in the third week of December, 2021.

Sd/-
02/11/2021

/ TRUE COPY /

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

gk

To

1.THE JUDGE,
TNPID COURT, MADURAI.

2.THE INSPECTOR OF POLICE,
ECONOMIC OFFENCE WING,
NAGERCOIL,
KANYAKUMARI DISTRICT.

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

COPY TO :

1.THE DISTRICT REVENUE OFFICER, CHENNAI.

2.THE DISTRICT REVENUE OFFICER,TIRUVALLUR.

3.THE DISTRICT REVENUE OFFICER,KANCHEEPURAM.

4.THE DISTRICT REVENUE OFFICER,CHENGALPATTU.

5.THE DISTRICT REVENUE OFFICER,VELLORE.

6.THE DISTRICT REVENUE OFFICER,TIRUPATHUR.

7.THE DISTRICT REVENUE OFFICER,RANIPET.

8.THE DISTRICT REVENUE OFFICER,TIRUVANNAMALAI.

9.THE DISTRICT REVENUE OFFICER,VILLUPURAM.

10.THE DISTRICT REVENUE OFFICER,KALLAKURICHI.

11.THE DISTRICT REVENUE OFFICER,CUDDALORE.

12.THE DISTRICT REVENUE OFFICER,DHARMAPURI.

13.THE DISTRICT REVENUE OFFICER,KRISHNAGIRI.

14.THE DISTRICT REVENUE OFFICER,SELAM.

15.THE DISTRICT REVENUE OFFICER,NAMAKKAL.

16.THE DISTRICT REVENUE OFFICER,COIMBATORE.
17.THE DISTRICT REVENUE OFFICER,TIRUPPUR.

18.THE DISTRICT REVENUE OFFICER,ERODE.

19.THE DISTRICT REVENUE OFFICER,THE NILGIRIS.

20.THE DISTRICT REVENUE OFFICER,THANJAVUR.

21.THE DISTRICT REVENUE OFFICER,TIRUVARUR.

22.THE DISTRICT REVENUE OFFICER,NAGAIPATTANAM.

23.THE DISTRICT REVENUE OFFICER,MAYILADUTHURAI

24.THE DISTRICT REVENUE OFFICER,TIRUCHY.

25.THE DISTRICT REVENUE OFFICER,ARIYALUR.

26.THE DISTRICT REVENUE OFFICER,PERAMBALUR.

27.THE DISTRICT REVENUE OFFICER,KARUR.

28.THE DISTRICT REVENUE OFFICER,PUDUKKOTTAI.

29.THE DISTRICT REVENUE OFFICER,SIVAGANGAI.

30.THE DISTRICT REVENUE OFFICER,RAMANATHAPURAM.

31.THE DISTRICT REVENUE OFFICER,MADURAI.

32.THE DISTRICT REVENUE OFFICER,DINDIGUL.

33.THE DISTRICT REVENUE OFFICER,THENI.

34.THE DISTRICT REVENUE OFFICER,VIRUDHUNAGAR.

35.THE DISTRICT REVENUE OFFICER,TIRUNELVELI.

36.THE DISTRICT REVENUE OFFICER,THOOTHUKUDI.

37.THE DISTRICT REVENUE OFFICER,THENKASI.

38.THE DISTRICT REVENUE OFFICER,KANYAKUMARI AT NAGERKOIL.

39.THE SUPERINTENDENT OF POLICE,TIRUVALLUR.

40.THE SUPERINTENDENT OF POLICE,KANCHEEPURAM.

41.THE SUPERINTENDENT OF POLICE,CHENGALPATTU.

42.THE SUPERINTENDENT OF POLICE,VELLORE.
43.THE SUPERINTENDENT OF POLICE,TIRUPATHUR.

44.THE SUPERINTENDENT OF POLICE,RANIPET.

45.THE SUPERINTENDENT OF POLICE,TIRUVANNAMALAI.

46.THE SUPERINTENDENT OF POLICE,VILLUPURAM.

47.THE SUPERINTENDENT OF POLICE,KALLAKURICHI.

48.THE SUPERINTENDENT OF POLICE,CUDDALORE.

49.THE SUPERINTENDENT OF POLICE,DHARMAPURI.

50.THE SUPERINTENDENT OF POLICE,KRISHNAGIRI.

51.THE SUPERINTENDENT OF POLICE,SELAM.

52.THE SUPERINTENDENT OF POLICE,NAMAKKAL.

53.THE SUPERINTENDENT OF POLICE,COIMBATORE.

54.THE SUPERINTENDENT OF POLICE,TIRUPPUR.

55.THE SUPERINTENDENT OF POLICE,ERODE.

56.THE SUPERINTENDENT OF POLICE,THE NILGIRIS.

57.THE SUPERINTENDENT OF POLICE,THANJAVUR.

58.THE SUPERINTENDENT OF POLICE,TIRUVARUR.

59.THE SUPERINTENDENT OF POLICE,NAGAIPATTANAM.

60.THE SUPERINTENDENT OF POLICE,MAYILADUTHURAI

61.THE SUPERINTENDENT OF POLICE,TIRUCHY.

62.THE SUPERINTENDENT OF POLICE,ARIYALUR.

63.THE SUPERINTENDENT OF POLICE,PERAMBALUR.

64.THE SUPERINTENDENT OF POLICE,KARUR.

65.THE SUPERINTENDENT OF POLICE,PUDUKKOTTAI.

66.THE SUPERINTENDENT OF POLICE,SIVAGANGAI.

67.THE SUPERINTENDENT OF POLICE,RAMANATHAPURAM.

68.THE SUPERINTENDENT OF POLICE,MADURAI.
69.THE SUPERINTENDENT OF POLICE,DINDIGUL.

70.THE SUPERINTENDENT OF POLICE,THENI.

71.THE SUPERINTENDENT OF POLICE,VIRUDHUNAGAR.

72.THE SUPERINTENDENT OF POLICE,TIRUNELVELI.

73.THE SUPERINTENDENT OF POLICE,THOOTHUKUDI.

74.THE SUPERINTENDENT OF POLICE,THENKASI.

75.THE SUPERINTENDENT OF POLICE,KANYAKUMARI AT NAGERKOIL.

76.THE DISTRICT REGISTRAR, CHENNAI NORTH,

77.THE DISTRICT REGISTRAR, CHENNAI SOUTH.

78. THE DISTRICT REGISTRAR, CHENNAI CENTRAL.

79.THE DISTRICT REGISTRAR, PERIYAKULAM,
THENI DISTRICT.

80.THE DISTRICT REGISTRAR, KANCHEEPURAM.

81.THE DISTRICT REGISTRAR, CHENGALPATTU.

82.THE DISTRICT REGISTRAR,SELAM EAST.

83.THE DISTRICT REGISTRAR,SELAM WEST.

84.THE DISTRICT REGISTRAR,DHARMAPURI.

85.THE DISTRICT REGISTRAR,KRISHNAGIRI.

86.THE DISTRICT REGISTRAR,NAMAKKAL.

87.THE DISTRICT REGISTRAR,COIMBATORE.

88.THE DISTRICT REGISTRAR,ERODE.

89.THE DISTRICT REGISTRAR,GOPICHETTIPALAYAM,
ERODE DISTRICT.

90.THE DISTRICT REGISTRAR,UTHAGAMANDALAM.

91.THE DISTRICT REGISTRAR,TIRUPPUR.

92.THE DISTRICT REGISTRAR,THANJAVUR.

93.THE DISTRICT REGISTRAR,KUMBAKONAM,
THANJAVUR DISTRICT.

94.THE DISTRICT REGISTRAR,NAGAIPATTANAM.

95.THE DISTRICT REGISTRAR,MAYILADUTHURAI

96.THE DISTRICT REGISTRAR,TIRUCHY.

97.THE DISTRICT REGISTRAR,ARIYALUR.

98.THE DISTRICT REGISTRAR,VIRUDHUNAGAR.

99.THE DISTRICT REGISTRAR,KARUR.

100.THE DISTRICT REGISTRAR,PUDUKKOTTAI.

101.THE DISTRICT REGISTRAR,SIVAGANGAI.

102.THE DISTRICT REGISTRAR,KARAIKUDI,
SIVAGANGAI DISTRICT.

103.THE DISTRICT REGISTRAR, RAMANATHAPURAM.

104.THE DISTRICT REGISTRAR,TIRUNELVELI.

105.THE DISTRICT REGISTRAR,PALAYAMKOTAI,
TIRUNELVELI DISTRICT.

106.THE DISTRICT REGISTRAR,THENKASI.

107.THE DISTRICT REGISTRAR,KANYAKUMARI.

108.THE DISTRICT REGISTRAR,MARTHANDAM,
KANYAKUMARI DISTRICT.

109.THE DISTRICT REGISTRAR,THOOTHUKUDI.

110.THE DISTRICT REGISTRAR,CUDDALORE.

111.THE DISTRICT REGISTRAR,CHIDAMBARAM,
CUDDALORE DISTRICT.

112.THE DISTRICT REGISTRAR,VIRUDHACHALAM,
CUDDALORE DISTRICT.

113.THE DISTRICT REGISTRAR, TINDIVANAM,
VILLUPURAM DISTRICT.

114.THE DISTRICT REGISTRAR, VELLORE.

115.THE DISTRICT REGISTRAR, ARAKONNAM,
RANIPET DISTRICT.

116.THE DISTRICT REGISTRAR, TIRUVANNAMALAI.

117.THE DISTRICT REGISTRAR, CHEYYAR,
TIRUVANNAMALAI DISTRICT.

118.THE DISTRICT REGISTRAR,MADURAI NORTH.

119.THE DISTRICT REGISTRAR,MADURAI SOUTH.

120.THE DISTRICT REGISTRAR,DINDIGUL.

121.THE DISTRICT REGISTRAR,PALANI,
DINDIGUL DISTRICT.

(WITH A REQUEST TO COMMUNICATE THIS ORDER
TO THE SUB-REGISTRARS UNDER THEIR JURISDICTION, AS WELL)

122.THE COMMISSIONER OF POLICE,CHENNAI.

123.THE COMMISSIONER OF POLICE,SALEM.

124.THE COMMISSIONER OF POLICE,COIMBATORE.

125.THE COMMISSIONER OF POLICE, TIRUPPUR.

126.THE COMMISSIONER OF POLICE,TIRUCHY.

127.THE COMMISSIONER OF POLICE,MADURAI.

128.THE COMMISSIONER OF POLICE,TIRUNELVELI.

COPY TO

1.THE REGISTRAR(JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

2 THE SECTION OFFICER,
CRIMINAL SECTION
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

3 THE SECTION OFFICER,
ACCOUNTS SECTION
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

4 MR.T.LAJAPATHI RAOY
ADVOCATE,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) Nos.6091 & 7170 of 2021
DATE:02.11.2021

VB/JC/SAR-II/01.12.2021/12P/136C