



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 01.12.2021
Delivered on : 10.12.2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.7752 of 2021

WEB COPY

R.Rajkumar,

... Petitioner/Accused No.1

Vs

1.State through
The Inspector of Police,
District Crime Branch,
Theni, Theni District.
Cr.No.12 of 2020.

... 1st Respondent / Complainant

2.J.Vanitha,

... 2nd Respondent / Defacto
Complainant

3.Sammunati Financial Intermediation
and Services Pvt Ltd.,, Having
Office at Baid Hi-Tech Park,
No.129-B,8th Floor,
East Coast Road, Thiruvannamiyur,
Chennai-600 041..

... 3rd Respondent/Money Lender

For Petitioner : M/s.Prabhu Rajadurai G,
Advocate.

For Respondents : Mr.Rms.Sethuraman,
Additional Public Prosecutor,
for R1.
: No Appearance, for R2.
: Mr.Nithiyaesh Natraj,
Advocate for R3.

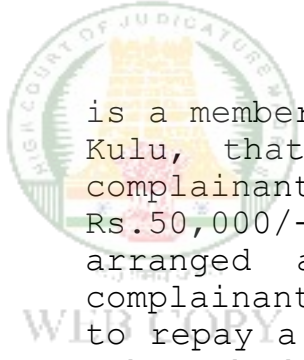
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.12 of 2020 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, who apprehends arrest at the hands
of the respondent police for the offences punishable under Sections
467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 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1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 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2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2



is a member of the self help group, namely, Mullai Vivasaya Aarvalar Kulu, that the petitioner has collected papers from the defacto complainant and other nine persons with a promise to obtain loan of Rs.50,000/- each for purchase of cow, that the petitioner had not arranged any such loan, that in the meanwhile, the defacto complainant received a legal notice from the third respondent herein to repay a sum of Rs.6 lakhs, that when the defacto complainant and others had visited the petitioner's premises, the same was kept lock and that therefore, the defacto complainant was constrained to lodge the above complaint.

3.The case of the petitioner is that he is the founder trustee of the "Institution of Mass Awareness Initiatives" (IMAI), that the petitioner's trust has entered into Memorandum of Understanding with the third respondent for disbursement of loans to self help groups, that as per the memorandum of understanding, the petitioner has to identify the self help groups and acted as a collecting agent for collection of the loan due, for which, the loans are disbursed for purchase of live stocks, that the petitioner identified various self help groups and loans were disbursed to them directly and the Mullai Vivasaya Aarvalar Kulu, is one such self help group, that in October 2018, loan amount of Rs.5,50,000/- was sanctioned to the said Mullai Vivasaya Aarvalar Kulu, and the said amount was directly deposited in the account of that self help group and that the defacto complainant, who is the Secretary of the self help group is authorised to operate the account, that thereafter, there arose some disputes between the petitioner and the third respondent and legal notices were exchanged between them, that the third respondent issued a demand notice to the petitioner, dated 02.11.2020, stating that the over due amount of the said Mullai Vivasaya Aarvalar Kulu has been mentioned at Rs.3,68,993/-, that since the petitioner is the guarantor of the said loan, if the defacto complainant fails to pay the amount, it is for the petitioner to repay that amount and that the petitioner has already repaid Rs.3,02,61,290/-.

4.The case of the third respondent is that the gravity of the allegations against the petitioner is that the petitioner instead of disbursing the loan amount to the respective self help groups, have misappropriated the loan amount sanctioned to the most of the self help groups for personal use in connivance with one Mr.G.Suresh, The Branch Manager of Karur Vysya Bank, Periakulam, that the petitioner has diverted the funds, which were lent to the self help groups, that the petitioner/accused had admitted to having misappropriated the loans given to the self help groups to the tune of Rs.3,57,76,807/- as on 16.09.2020 and that since the accused had indulged in misappropriation of money, he cannot claim immunity from the clutches of law.

5.Heard the learned counsel for the petitioner and the learned counsel for the intervenor and also the learned Additional Public

<https://hccasescourts.org.in/approves/> for the State and perused the materials placed on record.



6.It is evident from the records that the petitioner, who is the founder trustee of Institution of Mass Awareness Initiatives, has entered into Memorandum of Understanding with the third respondent on 13.05.2017 and whereunder, it was agreed that the petitioner and his trust will act as the intermediary in sanctioning of loans to the Self Help Groups and also to ensure that such borrowers are furnishing timely repayments.

7.The learned counsel for the petitioner would submit that he is innocent and has not committed any offence as alleged by the prosecution and that he has been falsely implicated in the above case. He would further submit that the loan amount sanctioned by the third respondent was deposited in the account of self help groups directly, that there existed disputes between the petitioner's trust and the third respondent and legal notices were being exchanged between them, that the third respondent has issued a demand notice to the petitioner on 02.11.2020, directing to pay the amount due by the defacto complainant's self help group at Rs.3,68,993/-, that the petitioner being the guarantor of the said loan, in case of non-payment of amount by the defacto complainant, is duty bound to pay the amount to the third respondent and as such, the contentions of the defacto complainant is untenable and cannot be accepted and that therefore, he prayed for grant of anticipatory bail to the petitioner.

8.The learned counsel for the petitioner would further submit that the third respondent has claimed interest at 26% per annum besides penal interest of 2% and as such, the effective interest is 28%, that the third respondent is only a non-banking financial company and as such, they are bound by the provisions of Tamil Nadu Prohibition of Charging Exorbitant Interest Act and the Money Lenders Act, that the third respondent is duty bound to reduce the interest at 12% per annum and that if the interest rate is scaled down to 12%, there would not be any dues at all.

9.In the case on hand, as already pointed out, the defacto complainant, who is the Secretary of Mullai Vivasaya Aarvalar Kulu, has alleged in her complaint that they have been issued with a legal notice by third respondent claiming a sum of Rs.6 lakhs, as if the petitioner had arranged and obtained loan for the defacto complainant's self help group members through his trust.

10.The learned counsel for the third respondent would submit that the third respondent is a registered NBFC and is governed by the rules framed by the Reserve Bank of India, that there is no infringement by the third respondent as alleged by the petitioner, that the High Court of Gujarat in **Sundaram Finance Limited Vs. The Assistant Registrar and others [2010 SCC Online Guj 203]**, has held that the provisions of the State Money Lenders Act does not apply to NBFCs, as they are governed by the Central Act.

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

11.Moreover, as rightly contended by the learned counsel for



the third respondent, the dispute with respect to the demand of interest at 26% and penal interest at 2%, is a matter between the petitioner and the third respondent and the same has nothing to do with the defacto complainant. Moreover, on the basis of the complaint lodged by the defacto complainant, FIR came to be registered and as such, whether the demand of interest at 26% including penal interest at 2% is proper ? Whether the said demand is against the provisions of Money Lenders Act and whether the third respondent is entitled to get interest only at 12% per annum are the aspects that cannot be gone into and decided by the Bail Court.

12. According to the third respondent, the petitioner is liable to pay a sum of Rs.4,54,15,258.24/- to the third respondent including the interest and penal charges as on 31.07.2021. As rightly contended by the learned counsel for the third respondent, the petitioner is attempting to give the civil case a criminal color/flavour, where allegedly monies are siphoned off and the documents are forged and fake documents are opened with the aid of his allies.

13. It is not in dispute that the petitioner has filed a petition for anticipatory bail in Crl.OP(MD)No.211 of 2021 and this Court vide order 18.02.2021, dismissed the said petition.

14. The learned Government Advocate (Criminal Side) would submit that totally 77 self help groups have been cheated by the petitioner so far, and only 17 self help groups were identified and that the petitioner in connivance with the bank officials had obtained loan in the name of self help groups and misappropriated the same and that if the remaining self help groups are identified, then the total amount misappropriated by the petitioner would be huge.

15. As rightly pointed out by the learned Government Advocate (Criminal Side), there is no change in circumstances, since the dismissal of the earlier petition for anticipatory bail.

16. Considering the seriousness and gravity of the offence alleged and also the quantum of the amount involved and also the fact that the investigation is pending as stated by the learned Additional Public Prosecutor, this Court is not inclined to grant anticipatory bail to the petitioner at this point of time.

17. In the result, this Criminal Original Petition is dismissed.

sd/-
10/12/2021

/ TRUE COPY /



das

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 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI, THENI DISTRICT.

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

+1 CC to M/S.PRABHU RAJADURAI G, Advocate SR.No.9165 dt:13.12.2021

ORDER

IN

CRL OP(MD) No.7752 of 2021

Date :10/12/2021

SB/JM/SAR-IV/16.12.2021/5P/4C