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

Reserved on	Pronounced on
29.06.2021	05.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.7177 of 2021

R.Jeeva Kennady ... Petitioner/Accused Rank Known

Vs

State Rep.by
The Inspector of Police,
District Crime Branch,
Kanyakumari District.
(Crime No.18/2019) ... Respondent/Complainant

For Petitioner : Mr.D.S.Haroon Rasheed, Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor

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

PRAYER :- For Anticipatory Bail in Crime No.18/2019 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under section 420 I.P.C., in Cr.No.18 of 2019 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is a Doctor and he is running a hospital in the name of Sriram Ortho Hospital at Idalakudi. To improve the infrastructure and expand the hospital, he proposed a project worth about Rupees Two Hundred Crores and also purchased the required lands. He was looking for investors to loan for his project. One Jeyakumar, Indra Gandhi,

Saravanan Ramasamy and Kabriel Francis, knowing fully well his financial requirement, arranged a meeting with one Arul Murugan on 05.10.2017. Arul Muguran told him that he is an advocate and working under Non-Indian Resident, who is in Australia and that Australian has a lot of money with him and he would lend money. It was also told that one Anitha David was in- charge of arranging loan. Accordingly, they made arrangements to open an account with National Australian Bank (NAB). They received a sum of Rs.10,000/- for legal opinion on 26.10.2017 through the bank account of Nallakani. Then the property inspection was done by Arul Murugan and an auditor on 30.10.2017. For this purpose, Arul Murugan got Rs.50,000/- from him. He informed that the bank staff one Baskar would come to the hospital for making loan arrangements and he was asked to pay Rs.37,000/- towards his air freight. Accordingly, a sum of Rs.37,000/- was paid in the account of one Vimal Raj on 04.11.2017. Baskar and Arul Murugan came to his hospital on 06.11.2017 and got Rs.3,25,000/- for starting NRI bank account. On 12.11.2017, he met one Anitha David at Palm Tree Hotel, Tirunelveli. As directed, he paid Rs.1,50,000/- on 14.11.2017 and Rs.80,000/- on 05.11.2017 in the account of Nallakani for preparing mortgage documents. He was informed that NRI account was opened and was also provided with Net banking Id and Password. Arul Murugan demanded one Crore as commission. He was also informed to sign in the loan documents and also demanded to give unfilled 7 cheques and Rs.1,00,00,000/- for activating his NRI account. On 27.11.2017, he met Arul Murugan at Rose Mary Hospital with Rs.1,00,00,000/- and 7 blank cheques. Arul Murugan, using the defacto complainant's cell phone, opened the ID and password and the account had shown that US dollar equivalent to Rupees fifty crores was credited in to his account. Arul Murugan got his commission and 7 unfilled cheques. When he requested for account activation letter, he was informed to go to Bombay. Accordingly, the defacto complainant and his friend Ganesh went to Bombay on 28.11.2017. They found that there was no bank as mentioned by the accused in the address given to them. On enquiry, the defacto complainant found that he was duped by creating fake ID, password and account. Therefore, this case came to be registered.

3. The learned Counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. He has no way involved in this case. He further submitted that he had also moved this Court by filing Crl.O.P.(MD)No.17597 of 2019 against the respondent police with a prayer that he should not be harassed in the guise of enquiry. He also filed a petition in Crl.O.P.(MD)No.12633 of 2020 for quashing the case in Cr.No.14 of 2019. He has filed copy of certain photographs to show that the police men entered into his house without uniform. He has also filed a copy of the representation of the petitioner dated 29.01.2021 to show that he sent a complaint to the Deputy Superintendent of Police, Kanyakumari District for the harassment caused against him and his family members by police personnel.

Again he sent a complaint on 31.01.2021 and 01.02.2021 to the District Superintendent of Police, Kanyakumari District with regard to the alleged misbehavior of the police officials.

4. The learned Counsel for the petitioner submitted that the petitioner is falsely implicated in this case for the reason that he had sent complaints against the police. His name is not found in the First Information Report. He worked under the accused Nallakani and assisted him in his business. Except this connection with the accused Nallakani as an employee, he had no role whatsoever in the alleged cheating involved in this case. Therefore, he seeks anticipatory bail to the petitioner.

5. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that this petitioner had actively involved along with other accused, especially A.4 - Nallakani in cheating the defacto complainant in this case. Not only that, he had actively assisted and participated and shared, whenever they got money by way of cheating. The role of this petitioner had been clearly narrated by Nallakani during the course of his confession statement. Many of the accused are absconding and therefore, the investigation could not be completed. Therefore, he seeks dismissal of this petition.

6. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.

7. It is true that the name of the petitioner is not found in the First Information Report. The F.I.R., is not be all and end of document. It only sets the law in motion. Only during the investigation, the police will collect the evidence and on the basis of the evidence collected and incriminating materials found, the accused will be implicated. In the case before hand, according to the learned Additional Public Prosecutor the accused Nallakani had clearly implicated this petitioner stating that "since he faces threat of his life because of his act of cheating many persons, he used to take Jeeva Kenady and keep with him always. It is further said that when he received documents and money from the defacto complainant, Jeeva Kenady was there. Jeeva Kenady is his close confident and both of them would share the booty and purchase the properties in the name of their family members". Thus there appears *prima facie* materials available in this case to implicate the petitioner as an accused.

8. As rightly pointed out by the learned Additional Public Prosecutor, because of the absconding of many accused, the investigation could not be completed. It seems that the defacto complainant was duped to an extent of Rs.1,07,52,000/- and made to part with certain documents. The money and documents have not been recovered. Only the custodial investigation would make the recovery

possible. In such circumstances, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

sd/-
05/07/2021

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/ /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 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KANYAKUMARI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.7177 of 2021
Date :05/07/2021

SSL
MS/JC/SAR-4/07.07.2021/4P.3C