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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on	Pronounced on
27.07.2021	30.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.8003 of 2021

1. Dinesh
2. Mani

... Petitioners/Accused No.1 & 2

Vs

State rep by
The Inspector of Police,
District Crime Branch,
Trichy.
Cr No.6 of 2021.

... Respondent/Complainant

Smith Palraj

... Petitioner /Intervener/
in CRL MP(MD)NO.4243 of 2021
in CRL OP(MD) . No.8003 of 2021

For Petitioner : Mr.Jameel Arasu.B.,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Government Advocate (Crl.Side)

For Intervenor : Mr.A.Thiruvadikumar
Advocate

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

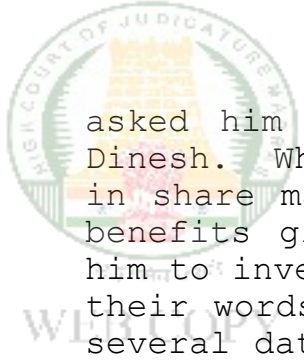
PRAYER :-

For Anticipatory Bail in Crime No.6 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A.1 and A.2 apprehending arrest at the hands of the respondent police for the alleged offence punishable under sections 406, 420, 294(b) and 506(ii) I.P.C., in Cr.No.6 of 2021 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant about the accused Dinesh through one Ananth Babu. Thereafter, he was closely moving with Dinesh over 6 years. His father Mani is also closely known to him. In June 2019, the accused



asked him to invest in share market trading, run by the accused Dinesh. When the defacto complainant told that he is not interested in share market trading, both the accused lured him by showing the benefits given to the investors in share market trading and asked him to invest Rs.25,00,000/- in the share market trading. Believing their words, the defacto complainant had invested Rs.17,50,000/- on several dates, by depositing the money in the account of the second accused. Then a sum of Rs.3,00,000/- was also paid to the accused 1 and 2. Totally, the defacto complainant invested Rs.20,50,000/- in the share market trading. Thereafter, the defacto complainant was not paid any amount as return. When he demanded his money back, the accused protracted in paying the amount. Due to repeated demands made by the defacto complainant, they paid Rs.6,00,000/- in September 2019 and again they paid Rs.2,00,000/- on 30.09.2019 and they have to pay Rs.12,50,000/-. When the defacto complainant demanded his money back, both of them scolded him in filthy language and made criminal intimidation. Therefore, this case came to be registered.

3. The learned Counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case. In fact, the defacto complainant, with the help of his friend kidnapped the petitioner-Dinesh and made him to pay Rs.5,25,000/-. In this regard, Dinesh had sent a complaint to the Joint Commissioner, Trichy on 14.08.2020. He had again sent complaints on 09.11.2020 and 08.12.2020. He also produced typed set of papers showing a copy of the account statement with regard to bitcoin transaction in favour of the defacto complainant to the value of Rs.18,33,000/-, a copy of the bank statement with regard to deposit of Rs.12,05,000/- in the account of defacto complainant and his wife, copy of Section 156(3) Cr.P.C., complaint filed before the jurisdictional Magistrate and the entire account statement. He submitted that these complaints and account statements show that the petitioners have nothing to pay to the defacto complainant. On the other hand, the defacto complainant with the help of his hirelings had blackmailed the petitioner-Dinesh and robbed his money. Therefore, he seeks anticipatory bail to the petitioners.

4. The learned Counsel appearing for the defacto complainant strongly opposes this petition on the ground that all the money transaction especially Rs.17,50,000/- was paid through bank account of the accused, particularly the second accused and these amounts were paid only from 12.06.2019 to 20.06.2019, whereas the first petitioner claimed that he was robbed of Rs.5,25,000/- during August-2020. The documents produced by him are hand written documents and xerox copies. These documents cannot be believed on the face of it. These documents had been created for the purpose of this case. On the other hand, there is solid evidence that the defacto complainant deposited atleast Rs.17,50,000/- in the account of the second accused. If the petitioners are granted anticipatory bail, there is no possibility of recovery of this amount. Therefore, he seeks dismissal of this petition.



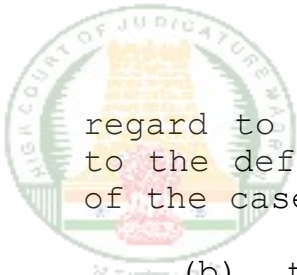
5. The learned Government Advocate (Crl.Side) appearing for the State opposes this petition on the ground that the investigation is not yet completed.

6. Heard the learned Counsel for the petitioners, the learned Counsel for the defacto complainant and the learned Government Advocate (Crl.Side) appearing for the State and perused the materials placed on record.

7. Narration of facts shows that the defacto complainant claims that he was induced and lured to invest in a share trade business to the tune of Rs.20,50,000/-. After investment, he was not paid even a single rupee as return. However, the petitioners denied his claim and stated that they paid whatever amount due to the defacto complainant. Both of them have filed some documents related to accounts. The relevancy and admissibility of these documents is a question to be decided. While considering the anticipatory bail application, the admissibility, reliability and genuineness of these documents cannot be gone deep into. These documents have to be proved through concerned witnesses. One undisputed fact is that the defacto complainant deposited Rs.17,50,000/- in the account of the second accused. He also admitted that a sum of Rs.8,00,000/- was repaid. There is no dispute with regard to that. With regard to the payment of further Rs.3,00,000/-, there is no material produced by the defacto complainant. Considering the nature and facts of the case, this Court is of the considered view that the custodial interrogation of the petitioners is not necessary for the reason that the allegations and counter allegations have to be proved through oral and documentary evidences alone. In this view of the matter, this Court is inclined to grant anticipatory bail to the petitioners, of course, with certain conditions to safeguard the interest of both the parties.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Trichy, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioners shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) towards Court deposit to the credit of Cr.No.6 of 2021 without prejudice to their defence and only on such deposit the learned Magistrate shall accept the sureties. On such deposit being made, the learned Magistrate is directed to the deposit the same in any one of the Nationalized Banks within his jurisdiction, in an interest bearing fixed deposit scheme. The learned Judge, at the conclusion of the trial, is directed to pass appropriate orders with



regard to the disbursement of this amount either directing payment to the defacto complainant or to the accused on the basis of merits of the case;

(b) the petitioners and 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;

(c) the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders;

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond either during investigation or trial;

(f) 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 petitioners 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;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
30.07.2021

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

SSL

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 NO.1, TRICHY.

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

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.



3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, TRICHY

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

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+1 CC to M/S.A.THIRUVADIKUMAR, Advocate (SR-4949[I] dated
30/07/2021)

ORDER

IN

CRL OP (MD) No.8003 of 2021

Date :30/07/2021

VB/JC/SAR.III/12.08.2021/5P/6C