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

Reserved on	Pronounced on
05.07.2021	09.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.8056 of 2021
and
CRL OP(MD) . No.8114 of 2021

1. Ashok
2. Banupriya ... Petitioners/Accused Nos.2 and 3

Vs

The State Represented by
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
Crime No.11 of 2021. ... Respondent/Complainant

Pradhap Karthick ...Petitioner/Intervener/
Defacto Complainant
in CRL MP(MD) No.4224 of 2021

For Petitioner : M/s.Syed Ali. N,
Advocate.

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

For Intervenor : Mr.M.T.Arunan
Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.11 of 2021 on the file of the
respondent police.

CRL OP(MD) . No.8114 of 2021:

Vijayarahavan ... Petitioner/1st Accused

Vs

The Inspector of Police,,
District Crime Branch, Tirunelveli,
Tirunelveli District.
Crime No.11 of 2021. ... Respondent/Complainant



For Petitioner : Mr.Syed Ali. N,
Advocate.

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

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

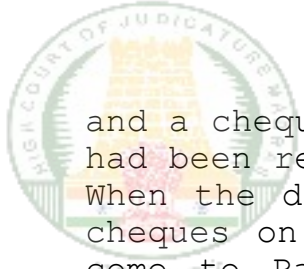
PRAYER :-

For Anticipatory Bail in Cr.No.11 of 2021 on the file of the respondent police

COMMON ORDER : The Court made the following order :-

The petitioners in CrI.O.P.(MD)No.8056 of 2021/A.2 and A.3 and the petitioner in CrI.O.P.(MD)No.8114 of 2021/A.1 apprehending arrest at the hands of the respondent police for the alleged offence punishable under sections 419, 406, 465, 467, 471, 420 and 109 I.P.C., in Cr.No.11 of 2021 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is a MCA, M.Tec., graduate. He had undergone training to appear for IAS examination in Bharathi IAS coaching centre, near Tirunelveli new bus stand from 2014-2016. The accused Vijayaraghavan joined in that coaching centre and came to be known to the defacto complainant. Vijayaraghavan told him that he knew several IAS officers and through them, he had secured employment to many persons. He had also shown appointment order of one Lingam. It is the further case of the defacto complainant that if the defacto complainant pays Rs.12,00,000/-, the accused Vijayaraghavan promised to get Group 2A appointment. The defacto complainant believed his words. His friend Sivaraj is a B.Sc., graduate. The accused Vijayaraghavan, Ashok and Banupriya had also told him that they would get employment to him if he pays the money. On the basis of their representation, on 23.10.2016, at about 11.00a.m., the defacto complainant and his friend Sivaraj had given Rs.12,00,000/- each to the accused Vijayaragavan and Ashok. The accused Banupriya was also present at the time of giving money and she assured guarantee for their money and employment. Rs.20,00,000/- was paid to Vijayaragavan and Rs.4,00,000/- was paid to Ashok. Then an appointment order in Memorandum No.467/PSD-D/2015, dated 26.10.2017 was sent to the whatsapp of the defacto complainant. However, the original appointment order has not been sent for more than 1 1/2 years. Then it transpired that the appointment order sent through whatsapp is forged and fabricated order. The defacto complainant and his friend had written TNPSC examination in the year 2015-2017, but they could not clear the examination. When the defacto complainant demanded the accused Vijayaragavan and Ashok, why they have not secured employment and asked for return of money, the accused issued Karur Vaishya Bank cheques for Rs.20,00,000/- to the defacto complainant



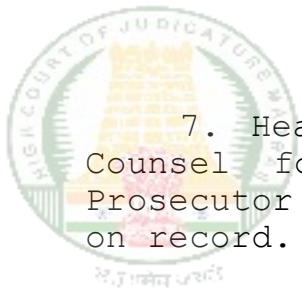
and a cheque for Rs.4,00,000/- was issued to Sivaraj. Both cheques had been returned for the reason that there was no sufficient funds. When the defacto complainant asked the accused about the return of cheques on 19.08.2020 and demanded money, the accused asked him to come to Palavur. When they approached Pillaiyar kudiyruppy bus stand, the accused Vijayaragavan and Ashok came in a Honda City Car. They abused him and assaulted him. They criminally intimidated him by stating that if he demands money he would be eliminated. 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. It is further submitted that the petitioner Vijayaraghavan borrowed only Rs.2,00,000/- from the defacto complainant and gave some blank cheques. Using those blank cheques, this case is foisted against the accused. In support of his submissions, he submitted that in this case, the defacto complainant claimed to have paid Rs.12,00,000/- for himself and his friend Sivaraj is said to have paid Rs.12,00,000/- on 23.10.2016. The defacto complainant had earlier given a complaint against the accused on 20.08.2020. On the basis of the said complaint, the F.I.R., has been registered in Cr.No.172 of 2020 before the Tirunelveli Police Station. In that case, the defacto complainant alleged that he paid Rs.12,00,000/- to the accused Vijayaragavan on 27.10.2016 for getting Government job.

4. It is his further submission that in the affidavit filed in the intervening petition in CrI.O.P.(MD)No.7844 of 2019, the defacto complainant claimed to have paid a sum of Rs.14,00,000/- at Chozha Hotel, Guindy on 23.09.2019. Thus it is seen from the case set up by the defacto complainant that he claims to have paid 3 sums, on different dates. Rs.24,00,000/- on 23.10.2016, Rs.12,00,000/- on 27.10.2016 and Rs.14,00,000/- on 23.09.2019. It clearly establishes the fact that the case of the defacto complainant is totally false and only with a view to harass the accused and to gain unjust enrichment, this false case is given.

5. The learned Counsel appearing for the intervenor strongly opposes this petition on the ground that whatever stated in the F.I.R., concerned in this case is true. He produced the copy of the appointment order sent through whatsapp, the order in CrI.O.P.(MD) No.12326 of 2020 and contempt notice dated 25.06.2021 in support of his case that the petitioners had cheated the defacto complainant by making him part with huge sums of money on the promise of getting employment. If the petitioners released on anticipatory bail, the amount could not be recovered. Therefore, he strongly opposes to grant anticipatory bail to the petitioners.

6. The learned Additional Public Prosecutor appearing for the State submitted that the investigation in this case is not yet completed.

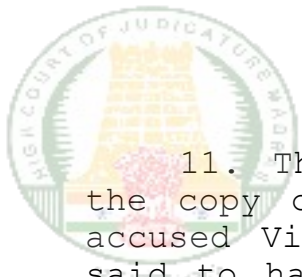


7. Heard the learned Counsel for the petitioner, the learned Counsel for the intervenor and the learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.

8. As narrated above, this case has been registered on the basis of the complaint given by the defacto complainant - Pradhap Karthick, against the accused Vijayaragavan, Ashok and Banupriya. The allegation in this case is that the accused had received a sum of Rs.12,00,000/- each from the defacto complainant and his friend Sivaraj, on the promise of getting employment, on 23.10.2016. As already pointed out and narrated above, the learned Counsel for the petitioners submitted that this is purely a false case registered on the basis of the cheques given by the accused in a money transaction. In support of his case, he submitted that the defacto complainant claimed different amounts, on different dates, at different places. The perusal of the copy of the F.I.R. in the case in Cr.No172 of 2020 and the affidavit filed in the intervening petition in CrI.O.P.(MD)No.7844 of 2019, supports this version of the learned Counsel for the petitioners.

9. In Cr.No.172 of 2020, it is claimed by the defacto complainant that he paid a sum of Rs.12,00,000/- to the accused Vijayaragavan on 27.10.2016 at his residence for getting Government job. In the affidavit filed in the intervening petition in CrI.O.P.(MD)No.7844 of 2019, the defacto complainant claimed that he paid Rs.14,00,000/- to the accused on 23.09.2019 at Chozha Hotel, Guindy. In the case before hand, he claimed to have paid Rs.12,00,000/- and his friend Sivaraja claimed to have paid Rs.12,00,000/- on 23.10.2016.

10. If the defacto complainant had paid Rs.24,00,000/- on 23.10.2016 for getting government job, why again a sum of Rs.12,00,000/- should be paid on 27.10.2016, as mentioned in F.I.R. in Cr.No.172 of 2020. When a sum of Rs.14,00,000/- was paid for getting Government job on 23.09.2019, at Chozha hotel, Guindy, why again a sum of Rs.24,00,000/- should be paid on 23.10.2016 and again a sum of Rs.12,00,000/- should be paid on 27.10.2016. There is no explanation. Aforesaid claim regarding payment does not fit into logic and reason. A person on his own sense would never pay repeatedly like this for getting employment despite the fact that no employment was secured after the first payment. Apparently, it appears that the alleged payments said to have been made by the defacto complainant for getting Government job, are not true. However, this case is in the stage of investigation. This Court does not want to go deep into the merits of the case at this stage. Suffice it is to say that there is fundamental falsity, truthlessness, serious suspicion in the case of the defacto complainant. As submitted by the learned Counsel for the petitioners, may be there was money transaction between the defacto complainant and the accused and taking advantage of the cheques given as a security for the loan transaction, this case is given.



11. The learned Counsel for the defacto complainant produced the copy of the appointment order said to have been sent by the accused Vijayaragavan through whatsapp. This appointment order is said to have been received by the defacto complainant through his whatsapp. This is an electronic evidence and it has to be proved by production of Section 65(B) of Indian Evidence Act certificate. He also produced a copy of the order passed in CrI.O.P.(MD)No.12326 of 2020, dated 05.11.2020 and the contempt notice dated 25.06.2021. They relate to different proceedings and it will not have any bearing over this petition. As stated above, there is a serious doubt in the very basis of the case of the defacto complainant with regard to the payment of money for getting employment. Therefore, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

12. 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.I, Tirunelveli, 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 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;

(b)the first petitioner in CrI.O.P.(MD)No.8056 of 2021 and the petitioner in CrI.O.P.(MD)no.8114 of 2021 shall report before the respondent police daily at 10.30 a.m., until further orders; and the second petitioner in CrI.O.P.(MD)No.8056 of 2021 shall report before the respondent police as and when required for interrogation.

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

(d)the petitioners shall not abscond 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 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;



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

Sd/-
09/07/2021

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

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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.I, TIRUNELVELI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2 CC to M/s.N.SYED ALI, Advocate (SR-4444, 4445[I] dated 09/07/2021)

+1 CC to M/s.M.T.ARUNAN, Advocate (SR-4473[I] dated 09/07/2021)

ORDER
IN
CRL OP(MD) Nos.8056 and 8114 of 2021
Date :09.07.2021

VB/VR/SAR.III/13.07.2021/6P/8C