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.8986 of 2021

Vatchala @ Noel Mary ... Petitioner/Accused

Vs

The state represented by
The Inspector of Police,
District Crime Branch,
Virudhunagar District.
Cr.No.25 of 2015 ... Respondent/Complainant

For Petitioner : Mr.V.Karthikeyan, Advocate
for Mr.S.Joel, Advocate

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.25 of 2015 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 120(b), 406 and 420 IPC in Cr.No.25 of 2015, seeks anticipatory bail.

2. The prosecution case is that the defacto complainant company is entrusted with the work of filling money in ATM centres. Insofar as Virudhunagar District is concerned four ATM centres are under their control and the company employees Imam Raja Mohammad and Sadham Hussain were nominated as custodians for the said four ATM centres. On audit, it was found that there were shortage of money in three ATM centres, out of the four centres, to the tune of Rs.81,91,000/-. On enquiry, the accused – Imam Raja Mohammad informed that the amount was given to a politician and that it would be returned immediately. But then, he absconded. Hence, the complaint.

3. When the matter came up for consideration in the earlier occasion on 14.09.2021, this Court has passed the following order:

"3. Learned Counsel for the petitioner submitted that the petitioner has nothing to do with the filling of money in the ATM centres. The allegation is against the accused nos.1 & 2. The petitioner is not an employee of the defacto complainant company, which was entrusted with the work of filling the money. However, the respondent police is also harassing the petitioner unnecessarily and hence, she approached this Court for grant of anticipatory bail.

4. Learned Government Advocate (Crl. Side), on instructions, submitted that the defacto complainant company was entrusted with the work of filling the money in 500 ATM centres all over the country. The company has entrusted the filling of money in four ATM centres in Virudhunagar District with one Imam Raja Mohammad and Sadham Hussain. When an audit was conducted with regard to the four ATM centres in Virudhunagar District, it was found that there was shortage of money in three ATM centres to the tune of Rs.81,91,000/-.

5. Learned Government Advocate (Crl. Side) further submitted that the accused - Imam Mohammad Raja was apprehended on 14.11.2015 and a confession statement was recorded. In the confession statement, he has stated that they have exchanged their security passwords to his younger brother, Syed Ibrahim, who was working at TATA Indicash, Tenkasi, who introduced one Senthil Velmurugan. The said Senthil Velmurugan has informed them that he would pay a sum of Rs.50 Lakh for a cash of Rs.42 Lakh and he has introduced one Vatchala / petitioner herein and one Sedapatti Rajendran. On the directions of Vatchala / petitioner herein, the other accused by using the secret password has taken the money from the ATM centres and handed it over to this petitioner Vatchala. A status report of the Deputy Superintendent of Police, District Crime Branch, Virudhunagar District, has also been filed by the learned Government Advocate.

6. It appears that this is the fifth application filed by the petitioner for anticipatory bail. The first application is Crl.OP (MD)No.23576 of 2015 and when the Court expressed it's non-inclination to grant anticipatory bail, the said petition was dismissed as withdrawn on 16.02.2016. The second application in Crl.OP(MD)No.6998 of 2016 was dismissed on merits on 26.04.2016. The third application in Crl.OP(MD)No.9454 of 2016 was dismissed for non-prosecution on 12.07.2016. The fourth application is Crl.OP(MD) No.12351 of 2020, which was also dismissed as withdrawn on 27.11.2020. Now, the present application is filed for the fifth time.

7. From the submission made by the learned Government Advocate and the status report of the Deputy Superintendent of Police, it appears that this petitioner / Vatchala is the main accused, with *whom the money has been handed over. The money is yet to be recovered. But, she is yet to be apprehended by the respondent police. The petitioner is filing applications before this Court for anticipatory bail right from the year 2015. She is aware of the case pending against her. Likewise, the respondent police is also aware of the filing of petitions by her for anticipatory bail before this Court. Even then, no steps have been taken by the respondent police to apprehend her and the petitioner has successfully evaded the arrest for the past six years.*

8. A sum of Rs.81,91,000/- which was meant to be filled in the ATM centres was swindled. Apart from the known accused, there are several other accused who are still in the dark. This Court is not satisfied with the manner of investigation in a case of this nature. Be that as it may, since the respondent police themselves have not shown any interest to arrest the petitioner right from the year 2015 (since the filing of the first anticipatory bail application by the petitioner), this Court is inclined to grant interim anticipatory bail to the petitioner for a limited period, enabling her to appear before the respondent police for enquiry.

9. Accordingly, interim protection against arrest is granted to the petitioner / Vatchala @ V.Noel Mary till 05.10.2021. The petitioner is directed to appear before the respondent police daily, from 15.09.2021 and co-operate for the enquiry. The respondent police shall conduct the investigation and file a report before this Court on the next date of hearing."

4. Today, it is reported by the learned Additional Public Prosecutor that the petitioner, having obtained an interim order against arrest, neither appeared before the respondent police nor co-operated for the enquiry.

5. Considering the nature of offence, role played by the petitioner, coupled with her conduct in not co-operating for the investigation after obtaining an interim order of protection from this Court and taking into account that the amount swindled is yet to be recovered, this Court is not inclined to entertain this application any further.

6. Accordingly, this criminal original petition stands dismissed. It is open to the respondent police to secure the petitioner and proceed further in accordance with law.

sd/-
02/11/2021

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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, VIRUDHUNGAR DISTRICT.

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

+1 CC to M/s.S.JOEL, Advocate (SR-7851[I] dated 08/11/2021)

ORDER
IN
CRL OP(MD) No.8986 of 2021
Date :02/11/2021

gk
SS/VR/SAR-III/12.11.2021 : 4P/4C