BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/08/2021

PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.9476 of 2021

1. S.Viswanathan
2. B.Vedhanayagi

... Petitioners/Accused(Rank not known)

Vs

State Rep. by
The Inspector of Police,
District Crime Branch (DCB),
District Police Office,
Trichy,
Trichy District.
(Crime No.Not known/2021).

... Respondent/Complainant

For Petitioners: Mr.R.Sakthivel
Advocate.
For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)
Mr.R.Babu Jaganath for Intervenor

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

PRAYER :-
For Anticipatory Bail Crime No.not known of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused (Rank not known), apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 420, 467 and 506(i) of I.P.C, in Crime No.Not Known of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners herein have forged the signature of the defacto complainant namely Udayakumar son of Jeyaraj of Trichy and took a sum of Rs.22,50,000/- from the partnership firm's account. While he questioned the same, they threatened him with dire consequences. Hence, the complaint.

3.The learned counsel for the petitioners submits that one John Udayakumar, his wife and the petitioners herein are the partners in a Firm and they were dealing with a whole sale business on paint in the name and style of VJ Traders at Thiruverumbur, Tiruchirappalli. According to him, there is a civil dispute pending between the partners and this petitioner had raised objections on certain transactions of the firm made by one of the partner John Udayakumar. For that John Udayakumar lodged a complaint before the respondent police and the respondent police is harassing him under the guise of enquiry. Therefore, the petitioners filed the present petition seeking anticipatory bail on 13.07.2021.

4.This application is pending from July 2021 and this Court by earlier order dated 19.07.2021 directed the respondent police to conclude the enquiry within a period of two weeks and to register an FIR if any prima facie case is made out against the petitioner. Despite the same, the respondent police have not concluded the enquiry kept the matter pending as petition enquiry. Therefore, this Court by order dated 13.08.2021 directed the appearance of the Officer concerned, before this Court today (25.08.2021).

5.When this matter is taken up for hearing today, the Officer is not present as directed by this Court. Instead, the learned Government Advocate (Crl. Side) produced a copy of the First Information Report in Crime No.15 of 2021, which has been registered as against the petitioners on 17.08.2021 for the offences punishable under Sections 420, 468, 471, 294 (b) and 506(i) IPC. As per the First Information Report the occurrence had taken place on 10.03.2021 and the information was received by the respondent police on 17.08.2021.

6.Reading of the FIR reveals that the complaint was received by the respondent police from the Superintendent of Police in G4.8322/492/2021, dated 23.03.2021 through proceedings in C.No.146/DCB/DSP/TRI/2021, dated 08.04.2021, and was treated as a petition enquiry for more than four months. Apparently, the Inspector of Police has not complied with the Circular issued by the Director General of Police in Rc.No.226313/Crime.4(3)/2013, dated 26.07.2018.

7.Further, it discloses that on 10.03.2021, the defacto complainant received a message as if through RTGS an amount of Rs.15,00,000/- has been transferred from the defacto complainant's account to another account of Indian Overseas Bank and on the same day another sum of Rs.7,50,000/- was transferred to another account. Immediately, when the defacto complainant has also verified with the Bank Manager of the City Union Bank, where they are maintaining the account and disputed his signature, the Manager did not consider the same. Hence, he lodged the complaint.

8.The learned counsel for the petitioners submits that as per the terms and conditions of the partnership deed, the petitioners as well as the defacto complainant are authorised signatories of the cheque and therefore, there is no need for the petitioners to forge the signature of the complainant to transfer any funds to any other account. The said submission of the learned counsel for the petitioner has not been disputed by Mr.Babu Jeganath, learned counsel for the intervenor/defacto complainant. However, he would submit that the disputed cheques bear the signatures of both parties and the defacto complainant have did not sign in the said cheque. If this is the case of the defacto complainant, it is surprising how this Inspector of Police has treated the complaint as petition enquiry for four months, despite the directions of the Director General of Police.

9.The manner in which the complaint has been handled appears that a Kangaroo Court has been held in the police station by the Inspector of Police, DCB, Tiruchirappalli. Considering the facts and circumstances of the case, the manner of dealing the issue by the respondent police nad the nature of allegations, This Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

10.Accordingly, this Criminal Original Petition is allowed and 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, 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 learned Magistrate concerned and on further conditions that:

(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioners shall report before the respondent police as and when required for interrogation.

(c)the petitioners shall not tamper with the 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/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
25/08/2021

/ TRUE COPY /

/ /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 JUDICIAL MAGISTRATE NO.I,
   TRICHY.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
   TRICHY.

3. THE INSPECTOR OF POLICE
   DISTRICT CRIME BRANCH, (DCB)
   DISTRICT POLICE OFFICE, TRICHY, TRICHY DISTRICT.

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

ORDER
IN
CRL OP(MD) No.9476 of 2021
Date :25/08/2021

MGJ(09.09.2021)/SKN/SAR4 4P 5C