BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on	Pronounced on
26.07.2021	28.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.14941 of 2020

1. Shanthi
2. Sankarkumar ... Petitioners/Accused No.1 and 2

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Madurai District.
Crime No.29 of 2020. ... Respondent/Complainant

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

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

PRAYER :-For Anticipatory Bail in Crime No.29 of 2020 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 offences punishable under sections 120B, 406, 408, 420, 468 and 471 I.P.C., in Crime No.29 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant was working as a Special Tahsildar, Land Acquisition (National Highways), Melur to Karaikudi division. The lands have been acquired for laying four lane road from Melur to E.Malampatti and compensation was being disbursed to the land owners. The accused Shanthi was working in the defacto complainant's office as computer operator from 01.10.2019. She was responsible for making entries, preparing lists for transfer of payment from Bank to beneficiaries and other important functions with regard to disbursement of compensation amount. One Sumithra was already paid compensation.

It came to be known that she was again paid compensation. When the defacto complainant enquired the accused Shanthi as to why Sumithra was paid twice, she did not give proper explanation. Therefore, the defacto complainant made a verification of accounts. It came to light that the accused Shanthi prepared file in the name of one Shantha in respect of compensation amount paid to Sumithra amounting to Rs.22,42,139/-. Subsequently she altered the file name as Shanthi and transferred the amount to her account on 10.06.2020. When Shanthi was enquired about this, she undertook to return the money. However, she deposited only Rs.42,139/- in the bank account and gave a challan for Rs.22,42,139/-. The National Highways Authorities informed that only a sum of Rs.42,139/- was credited in their account. That was brought to the notice of Shanthi and she was enquired about this. She told that the amount would be credited through RTGS and thereafter, she stopped coming to work. Then a thorough checking was done in the accounts and it came to be known that the accused Shanthi had misappropriated to the tune of Rs.58,65,934/- and transferred to her account and to the account of her brother Sankarkumar, who is the second accused. The details of transactions are as follows:

Beneficiary Name	Amount shown as transferred to beneficiary account	Amount transferred to accused account
Sumithra	Rs.22,42,139	A1 account KVB 1801155000022094, 10.06.2020
Pandi	Rs.17,61,706	A1 account KVB 1801155000022094, 12.03.2020
Ramasamy	Rs.8,11,098	A2 account KVB 1160155000217600 06.08.2020
Ramu	Rs.10,50,991	A2 account KVB 1160155000217600 06.08.2020

Therefore, this case came to be registered.

3. The learned Counsel for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in this case. It is the defacto complainant, who was responsible for falsification of accounts and misappropriation of money. The defacto complainant and his driver Uthaman had forced the accused Shanthi to allow the amount to be transferred to her bank account and in the bank account of her brother stating that she would not face any problem. After the amount was credited in her account, that amount was paid to Uthaman. In this regard, she had given a complaint to the Inspector of Police, District Crime Branch, Madurai on 11.03.2020. Therefore, it is submitted that the accused had been

made scapegoats and the real offenders are the defacto complainant and his driver Uthaman. So saying, the learned Counsel for the petitioners prays for anticipatory bail to the petitioners.

4. The learned Government Advocate(Crl.Side) appearing for the State opposes this petition on the ground that there are materials to show that the accused had voluntarily, deliberately and with criminal intention, transferred the Government funds to her personal account and her brother's account for illegal and wrongful gain. The amount had not been recovered so far. Only if the petitioners are arrested and interrogated, the amount would be recovered. Therefore, he seeks dismissal of this petition.

5. Heard the learned Counsel for the petitioners and the learned Government Advocate(Crl.side) appearing for the State and perused the materials placed on record.

6. Narration of the facts shows that the accused in this case are charged with cheating, criminal breach of trust, forgery etc. It is to be noted that the first accused was working as a computer operator and responsible for banking transactions for disbursement of compensation amount to the land owners, from whom the lands had been acquired for four way lane project between Melur to E.Malampatty. The novel way with which the first accused said to have committed this offence is that she had created documents to show that payments had been made to certain beneficiaries and then those amounts were transferred to her account. Thereby, she said to have misappropriated a sum of Rs.58,65,934/- by transferring this amount to her account and to her brother's account. These beneficiaries were already paid their compensation. Now it is alleged by the petitioners that they are not accused and they were forced by the defacto complainant and his driver Uthaman to indulge in transfer of these amounts.

7. Perusal of the complaint alleged to have been sent by the first accused on 11.03.2020 shows that the first accused, after knowing fully well that she was doing something wrong, something illegal, that is, Government money was credited into her account, continued to indulge in this criminal activities until it was exposed. Her claim that she did this criminal act at the behest of the defacto complainant and his driver Uthaman cannot be accepted. Assuming that her claim is true, it is also a matter to be investigated by the respondent police. But the fact remains that even as per the complaint dated 11.03.2020, she had committed the offence of misappropriation, after fully knowing that she had diverted the Government funds illegally and wrongfully to her own account and to her brother's account. It is stated that the amount had not been recovered so far.

8. Considering the nature of offence of looting the Government money and its seriousness, this Court is of the considered view that

the custodial interrogation of the petitioners is necessary. In this view of the matter, this Court is not inclined to grant anticipatory bail to the petitioners and this Criminal Original Petition is dismissed.

sd/-
28/07/2021

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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,
MADURAI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.14941 of 2020
Date :28/07/2021

SSL
MK/VR/SAR.I/02.08.2021/4P/3C