



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Twenty Second day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN
CRIMINAL ORIGINAL PETITION No.2415 of 2022

and

Crl.M.P.No.1391 of 2022

1 PRADEEPKUMAR
2 PRAMEELAK

[PETITIONERS / ACCUSED]

Vs

STATE REP BY
INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
COIMBATORE.
CR.NO.31 OF 2021.

[RESPONDENT]

A.SHIBIL ALPATTA

..PETITIONER/DEFACTO COMPLAINANT ALLOWED
AS PER ORDER OF THIS COURT DATED 22/02/2022
MADE IN CRL.M.P.No.1391 OF 2022

For Petitioner : M/S. P.SARAVANA SOWMIYAN Advocate

For Respondent : MR. S.SANTHOSH, Govt. Advocate (Crl. Side)

For Intervenor : M/S K.KRISHNAMOORTHY Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 408, 420, 477A and 34 of IPC in Crime No.31 of 2021 on the file of the respondent police, seek anticipatory bail. The defacto complainant has filed an intervening petition in Crl.M.P.No.1391 of 2022.

2. The case of the prosecution is that the defacto complainant Mr.Shibil Alpetta is the General Manager of MSN Hatcheries, Anamalai (TK.), Pollachi, Coimbatore. In the said company the 1st petitioner and his wife/2nd petitioner were working as Zonal Manager and



Assistant Accountant, respectively. Audit of the said company revealed that the company was running in great loss. On enquiry, it revealed that the 1st petitioner in the aid of 2nd petitioner had committed breach of trust by receiving huge amount as commission from the company customers by reducing the price of chicks value and received Rs.1/-, Rs.2/- and 05.0paise commission from the customers, making loss to the company and misappropriated the company funds under different heads. The 2nd petitioner has created false accounts and both the petitioners have misappropriated to the tune of Rs.5,63,44,290/-, out of which, they had purchased lands in Kerala District and also a Benz Car. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. In otherwise, they did not commit any offence as alleged by the prosecution. He would further submit that during the relevant point of time, the petitioners herein have acted as per the direction given by Mr.Siyaz [owner of M/s.MSN Hatchaeries], who alone lodged the complaint holding that the petitioners committed a fraud to the tune of Rs.6 Crores. In earlier, in the year of 2020, for the same occurrence, the above referred Mr.Siyaz, had lodged a complaint before the respondent police and later, he withdrew the same. After withdrawing the said complaint, in order to harass these petitioners, he had filed another one false complaint on 22.12.2020, alleging that the petitioners have committed fraud. He also submitted that the petitioners are ready and willing to abide by any conditions that may be imposed on them by this Court. Accordingly, he pleaded for granting anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the 1st petitioner being the agent of Mr.Siyaz and 2nd petitioner, who is the wife of the 1st petitioner, had collected various amounts from the customers in their personal accounts, instead of the account, which stands in the name of the company. He would further submit that by using the said amount, which is illegally collected from the customers, the petitioners have purchased an immovable property in Kerala and now attempting to settle there. As of now, investigation is pending and if the petitioners are granted anticipatory bail, it would create hurdle in recovering the misappropriated amount. Therefore, he vehemently opposed for grant of anticipatory bail to the petitioners.

5. The learned counsel appearing for the intervenor/defacto complainant objected to the grant of anticipatory bail to the petitioners stating that since a huge amount has been misappropriated, custodial interrogation is very much necessary, for recovering the misappropriated amount.



6. Considered the submissions made by the learned counsel appearing for the petitioners, learned Government Advocate appearing for the respondent police and the learned counsel appearing for the intervenor/defacto complainant and perused the materials available on record.

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7. The respondent police registered the case as against the petitioners under Sections 408, 420, 477A and 34 of IPC. Previous to the occurrence, admittedly, the 1st petitioner was working under the control of the defacto complainant. During the relevant point of time, it is the duty of the 1st petitioner to take care of the entire office management, handling the dealers and customers, buying materials, selling 'CHICKS' and chicken feed at market rate, to various customers and on preparation of invoice, the sale amount has to be remitted into the company's account. But, here it is a case, the materials collected by the investigation agency would go to show that several customers have directly sent the amount to the petitioners' personal account. Though, the first petition given by the defacto complainant was withdrawn by him, in the month of September 2020, in the statement recorded by the respondent police, he had clearly averred that after collecting full particulars, he has preferred a fresh complaint.

8. Therefore, taking into consideration the above said aspects with the relevant records, it is not in dispute that the alleged offence committed by the petitioners, are grave in nature. If these type of petitioners are released on bail, the same will create hurdle in recovering the misappropriate amount. Hence, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this Criminal Original Petition is dismissed and the Intervening Petition in CrI.M.P.No.1391 of 2022 is allowed.

-sd/-

22/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
COIMBATORE.



2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. P.SARAVANA SOWMIYAN Advocate on payment of necessary
charges

CC to M/S K.KRISHNAMOORTHY Advocate on payment of necessary
charges Sr.2744

CRL OP.2415/2022

and Crl.M.P.No.1391 of 2022

Date :22/02/2022

RVR 24/02/2022