IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)
Monday, the Twenty First day of February Two Thousand Twenty Two
PRESENT
The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3627 of 2022

1 C.S.MEENATCHI [PETITIONERS / ACCUSED]
2 C.NATESAN

Vs

STATE REP BY [RESPONDENT]
INSPECTOR OF POLICE,
E2 ROYAPETTAH POLICE STATION,
CHENNAI 600 014.
CR. NO. 972 OF 2012

For Petitioner : M/S P.WILSON SENIOR ADVOCATE FOR
M/S.M.MANIVASAGAM ASSOCIATES Advocate

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

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 420 and 406 of IPC, in Crime No.972 of 2012, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is a permanent resident of Canada and during his visit to India, the petitioners herein represented to him that they have planned to float a real estate company and looking for a NRI Director for the company. The petitioners convinced and impressed the defacto complainant to invest in their company promising that he can get more profit and based on such false representation of the petitioners, the defacto complainant has paid a sum of Rs.44.75 lakhs to the 1st petitioner on various dates between the years 2007 and 2009. Since the 1st petitioner has not invested the money in the company and as such misappropriated the funds for her personal use, he has lodged a complaint against the petitioners with the respondent police. Hence, the respondent police registered a case against the petitioners.

3. The learned Senior Counsel appearing for the petitioners submits that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that earlier, by order dated 25.03.2013 in CMP No.945 of 2013 on the file of the learned XVIII Metropolitan Magistrate, Chennai, the petitioners herein were granted anticipatory bail. Later upon the petition filed by the defacto complainant, this Court vide order dated 04.09.2015 in Crl.O.P.No.9121 of 2013, cancelled the bail granted in favour of the petitioners. Now, for the past 10 years, the respondent police has not completed the investigation and filed the final report.

4. It is the specific submission of the learned Senior counsel appering for the petitioners that the 1st petitioner is a MBBS., MD., degree holder and she is a Doctor by profession and the 2nd petitioner, who is the husband of the 1st petitioner, is a B.Com. Graduate, and he has also passed CA Intermediate. He was the Managing Director of the company viz., Anubhav Group of Companies, which had gone into liquidation. Pending liquidation proceedings all the investors have been repaid along with interest without any dues and as of now the proceedings are pending to revive the company. These petitioners are aged about 68 years and investigation is completed in so far as these petitioners are concerned and custodial interrogation is not necessary. He also submitted that the petitioners are ready and willing to abide by any condition that may be imposed on them by this Court and would cooperate with the investigation. Accordingly, he pleaded for granting anticipatory bail to the petitioners.

5. The learned Government Advocate (Criminal Side) appearing for the respondent police,raised objections stating that the investigation is pending. However, he admits that the present case has been registered in the year of 2012.

6. Considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

7. Here it is a case, the respondent police has registered a case in Crime No.972 of 2012, as against the petitioners for the offence punishable under Sections 420 and 406 of IPC. The averments found in the FIR discloses the fact that the petitioners herein are the Directors of the Aashirwad Foundation Private Limited, received an amount of Rs.44.75 Lakhs from the defacto complainant, who is a Non Resident of India and later the petitioners without executing the sale deed as agreed and without repaying the petition mentioned amount, cheated the defacto complainant.

8. In this regard, it is the submission made by the learned Senior Counsel for the petitioners that the petitioners and the defacto complainant are the relatives. The defacto complainant being an NRI, was searching for people who would help in promoting his business in India and accordingly, the defacto complainant himself has promoted a company in the name and style of Aashirwad Foundation Private Limited and he is the founder Director of the said company. The 1st petitioner is the first cousin of the defacto complainant and taking advantage of the said relationship, the 1st petitioner was inducted as one of the Directors. Only in this regard, the alleged amount was transferred in the name of Aashirvad Foundation Private Limited and the same was suppressed by the defacto complainant.

9. In order to substantiate the same, the learned Senior Counsel produced the relevant document to show that the wife of the defacto complainant is also a Director of the above said company. Further, the amount sent by the defacto complainant was used for the purchase of land and on this score on 17.09.2008, some of the properties were purchased in the name of Aashirvad Foundation Private Limited. It all shows that the defacto complainant has sent money to the petitioners only for the sake of business and in otherwise, whether the same was received by the petitioners with an intention to cheat the defacto complainant is a matter for trial.

10. Further, the Enforcement Directorate registered a case in ECIR No.4/2013 on 14.06.2013 against these petitioners, as the FIR pertains to this petition i.e., Cr.No.972 of 2012 in E2 Royapettah Police Station, disclosed a scheduled offence viz., Section 420 IPC. Though this Court in earlier in the year of 2015 while at the time of disposing the Crl.O.P.No.9121 of 2013, directed to secure the accused, now, in view of the order dated 18.02.2022, passed in Crl.O.P.Nos.22869 and 24151 of 2018, the case filed by the Enforcement Directorate in ECIR No.4/2013 was quashed and therefore, the subsequent developments in the present case has diluted the allegations levelled against these petitioners.

11. Therefore, in the said circumstances, after passing an order by the competent Court that the petitioners are not an accused under Section 420 IPC pertains to the case registered by the Law Enforcing Authority, in ECIR No.4/2013, securing the accused for the petition mentioned case, which is the route cause for registering the case by the Enforcement Directorate, is not necessary. Hence, taking into consideration the above said facts, 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 on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, on condition that each of the petitioners shall execute a bond for a sum

of Rs.25,000/- (Rupees Twenty Five Thousand Only), with two sureties each for a like sum to the satisfaction of the respondent police or 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 Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners shall report before the respondent police on every Monday and Friday at 10.00 a.m., until further orders.

(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 themselves 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/-
21/02/2022

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

TRUE COPY

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

TO

1 XVIII METROPOLITAN MAGISTRATE
SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI(FOR INFORMATION)

3 INSPECTOR OF POLICE,
E2 ROYAPETTAH POLICE STATION,
CHENNAI 600 014.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.M.MANIVASAGAM ASSOCIATES Advocate on payment of necessary charges Sr.2682

CRL OP.3627/2022

Date :21/02/2022

RVR 02/03/2022