IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eleventh day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.4893 of 2022

AND CRL.M.P.NO.3191 of 2022

SARASU [PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUVANNAMALAI,
TIRUVANNAMALAI DISTRICT.
CRIME NO.16 OF 2019 [RESPONDENT]

NATIONAL COLLATERAL MANAGEMENT SERVICE LTD,
REP. BY REGIONAL MANAGER TAMIL NADU & KERALA
S.JAYARAMAN [PETITIONER / DEFACTO COMPLAINANT]

[ORDERED AS PER ORDER OF THIS COURT DATED 11/03/2022 IN CRL.MP.3191 OF 2022 IN CRL.O.P.NO.4893 OF 2022]

For Petitioner : M/S.B.JAWAHAR, Advocate

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

For Intervenor : M/S.A.SURESH, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offence under Sections 406 & 420 of I.P.C, in Crime No.16 of 2019, seeks anticipatory bail.

2. It is a case of conspiracy to cheat the bank as well as National Collateral Management Services (hereinafter referred as 'NCML') where the paddy being hypothecated and loan availed. The crux of the complaint is that the petitioner and persons like him in connivance of the Bank Manager had ploughed their paddy by availing loan and thereafter, with the help of godown Manager of NCML removed the paddy and replaced it with husk or in some case even without pledging the goods, loan has been availed. Investigation is at preliminary stage. At this juncture, the petitioner herein, who has availed loan from Axis Bank to a tune of Rs.50 lakhs and pledged his goods and deposited the goods in the godown of NCML as a collateral security has come forward with Anticipatory bail petition stating that, she is the victim of the crime and not an accomplish of the crime. The petitioner has availed the loan pledging the goods which has been stolen stealthily without her knowledge and not knowing that the goods has been already removed, she has been continuously paying the loan amount. As statement of accounts to indicate that part of the loan amount paid by the petitioner also been circulated. To verify the authenticity of the said payment, this Court directs the Bank as well as the Government Advocate (Crl.Side) to check the said payment which was alleged to have been made by the petitioner after the fraud came to light, so that to rule out, she is an innocent borrower and not privy to the succession of the paddy with husk. Now the Axis bank has given a letter indicating that a sum of Rs.30,65,772/- has been recovered from NCML and adjusted the amount with the borrower’s loan accounted on 31.12.2019 and this was done as per the arrangement within the bank and NCML and nothing to do with the petitioner herein.

3. It is clear that the petitioner has not paid any money towards the loan borrowed till date. She has not remitted the borrowed money with interest. In such circumstances, the bonafideness claimed by the petitioner herein appears to be fake. Therefore, this Court is not inclined to entertain this anticipatory bail petition. Accordingly, this Criminal Original Petition is dismissed.

-sd/-
11/03/2022

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 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, TIRUVANNAMALAI,
TIRUVANNAMALAI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.A.SURESH, Advocate on payment of necessary charges
SR.NO.3864

CRL OP.4893/2022
AND CRL.M.P.No.3191/2022

Date :11/03/2022

JPA 17/03/2022