IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G. CHANDRASEKHARAN

CRIMINAL ORIGINAL PETITION No.10827 of 2022

1 M.N.SARASVATHI(ALIAS)BALASARASWATHI [PETITIONERS/ ACCUSED]
2 HARRIS STEPHAN

Vs

THE STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
JOB SCAM INVESTIGATION WING TEAM -1,
(CR.NO.244/2019)

For Petitioner : M/S.AYESHA PARVEEN FOR M/S.R.RAJESH Advocate

For Respondent : M/S.J.SUBBIAH,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 for the alleged offence under Sections 420, 465, 468 and 34 of IPC in Crime No.244 of 2019, on the file of the respondent police, seek anticipatory bail.

2.Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) for the respondent.

3.The case of the prosecution is that the petitioners are the suspects for job-racketing. The 1st petitioner is the wife of A1 and the 2nd petitioner is the son of A1. One Mr.Paramasivam (A4) approached the de facto complainant stating that the accused A1 and A3 who are working in the Land Survey Department have arranged for job in CMRL for various persons and promised the defacto complainant that they would get a job for his daughter Sangeetha at CMRL, if he paid Rs.7 Lakhs. The de facto complainant, believing the words of the said Mr.Paramasivam (A4), gave a sum of Rs.2,00,000/- on 19.10.2016. After that, at the instance of A4, the defacto complainant transferred another sum of Rs.1,50,000/-through RTGS/NEFT to A4 on 28.12.2016. After some days, A4 informed the defacto complainant that he got an appointment order for his daughter

Sangeetha, so he/A4 urged the balance amount of Rs.3,50,000/-. The defacto complainant issued two unnamed cheques bearing Cheque Nos.761565 and 761566 for a sum of Rs.2,50,000/- and issued one more cheque bearing Cheque No.761567 for a sum of Rs.1,00,000/- in favour of Mr.Arun @ Arunkumar (A1). A1 encashed the Cheque of Rs.1 Lakh through his Bank and availed the money. Then, the defacto complainant came to know that the said appointment order was a fake document. Therefore, the de facto complainant had given Stop Payment for the said cheques. When the de facto complainant questioned A4 about the same, he returned back a part of the amount to a tune of Rs.2,00,000/- and the accused have not returned back the remaining amount. Hence, this Complaint.

4.Learned counsel for the petitioners submits that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Hence, he pleads for grant of anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl. Side) would submit that the 1st petitioner/A2 is the wife of A1 and the 2nd petitioner is the son of A1 and huge amount of money is involved in this case. He further submitted that the petitioner's husband/A1 was arrested by the respondent police on 17.03.2022 and on the same day he was remanded to judicial custody. The first anticipatory bail petition was dismissed by the Principal Sessions Court, Chennai on 06.04.2022 in Crl.M.P.No.4738 of 2022 and the second anticipatory bail petition was dismissed by the Principal Sessions Court, Chennai on 28.04.2022 in Crl.M.P.No.6473 of 2022. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

6.On perusal of the records, this Court does not find any legal material to proceed against the petitioners. In fact, the 2nd petitioner/Mr.Harris Stephan's name is not mentioned in the First Information Report. All along, the defacto complainant was dealing only with A4 Paramasivam. FIR allegations show that he did not meet A1 and A2 personally and that they demanded money on the promise of getting job. There is prima facie material to implead A1 for the reason that a sum of Rs.1,00,000/- was deposited in his account and he encashed it. No such material is available against the petitioners, who are the wife and son of 1st accused. Considering the facts and circumstances of the case, this Court is of the view that the custodial interrogation of the petitioners is not necessary. Hence, this Court is inclined to grant anticipatory bail to the petitioners.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai, on condition that the petitioners shall execute a bond for a sum of

Rs.25,000/- (Rupees Twenty Five Thousand Only) each 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 not tamper with evidence or witness either during investigation or trial;

(c) the petitioners shall report before the Investigating Officer daily at 10.30.a.m., until further orders;

(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 has been imposed and the petitioner 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 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
06/05/2022

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 CCB & CBCID METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PRINCIPAL SESSIONS JUDGE
CHENNAI.

4 THE INSPECTOR OF POLICE,
JOB SCAM INVESTIGATION WING TEAM -1,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.R.RAJESH Advocate on payment of necessary charges
SR.No.6873

CRL OP.10827/2022

Date :06/05/2022

CSK 12/05/2022