IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.11887 of 2022

SATHISHKUMAR [PETITIONER / ACCUSED]

Vs

STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH POLICE STATION,
TEAM-1, (DOCUMENT FORGERY WING)
VEPERY, CHENNAI.
(CRIME NO.529/2018)

For Petitioner : M/S M.MOHAMED RIYAZ Advocate

For Respondent : MR.A.DAMODARAN, Additional Public Prosecutor,

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 406, 408, 420, 465, 467, 468, 471, 472 & 120 (B) of IPC in Crime No.529 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that on 24.12.2018, one Sivasudhakar, who was working as Manager in Magma Finance Limited lodged a complainant before the respondent police stating that one Saravanan, his ex-employee and some other colluded to create fabricated document and produced the same before the de facto complainant's Finance Limited and got loan. It was further alleged that by using the same fabricated document, they have obtained few more loan from the Karur Vaysya Bank. The specific allegation against the Petitioner is that the co accused namely Gunaseelan (A6) gave a confession that they have used the bank account and ATM card of the Petitioner herein to get loan by using the fabricated document.

3. Learned counsel for the petitioner submits that the said Gunaseelan (A6) received a hand loan from the petitioner herein and when the petitioner demanded for the payment, the Gunaseelan (A6) assured to pay the amount to the petitioner herein by depositing the same in his bank account. Believing his words, the petitioner gave all the details of his bank account and ATM card. The petitioner did not involve in the alleged transaction through fabricated document. The investigation officer directed the Petitioner to appear before him by issuing notice under Section 41 (A) of Cr.P.C. Based on which, the petitioner appeared before the investigation officer for more than four times and produced all the relevant documents and established that he is not involved in any criminal activities but now the respondent police is harassing the petitioner.

4. The learned Additional Public Prosecutor would submit that the accused was working as Manager in the de facto complainant's company named as Magma Finance Limited and sanctioned loan in the fictitious name by fabrication of documents. Accordingly, the A1 sanctioned in the name of one, Gunaseelan (A6) and disbursed to the tune of Rs.45 lakhs in the account stands in the name of the petitioner herein. Likewise A1 sanctioned loan in the name of Mohd.Ishan to the tune of 26 lakhs disbursed in the account stands in the name of the petitioner herein.

5. Learned counsel for the petitioner submitted that in Crime No. 529 of 2018, A1 to A4 were already released on bail. In so far as the petitioner is concerned, he was issued Notice under Section 41 (A) of Cr.PC and in fact the petitioner had so far appeared seven times before the respondent and he has given statements. He also produced account statements and revealed that the amount which was disbursed in the petitioners' account had been transferred to the 6th accused, namely one, Gunasekaran. Therefore, the petitioner has nothing to do with the crime as alleged by the prosecution.

6. The learned Additional Public Prosecutor submitted that the petitioners also colluded with the other accused persons and sanctioned loan amount has been deposited in the petitioner's account. Insofar as the loan sanctioned in the name one, Mohammed Ishan to the tune of Rs.26 lakhs also remitted in the account stands in the name of the petitioners.

7. Admittedly, the petitioner was issued notice under Section 41 (A) of Cr.P.C. and he also appeared before the respondent initially. After period a period of four years, the petitioner apprehends arrest at the hands of the respondent. That apart A1 to A4 were already arrested and released on bail. In these circumstances, the custodial interrogation of the petitioner is not required.

8. Considering the above facts and circumstances that the dispute is civil in nature, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Metropolitan Magistrate Court, Egmore, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of three weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner in accordance with law as if the conditions have 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].**

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC

-sd/-
20/05/2022

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 METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH POLICE STATION,
TEAM-1, (DOCUMENT FORGERY WING)
VEPERY, CHENNAI.

+1 CC to M/S M.MOHAMED RIYAZ Advocate on payment of necessary charges SR.NO.7734

CRL OP.11887/2022

Date :20/05/2022

TA-25/05/2022