IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.11937 of 2022

M. RAMU MUTHUKARUPPAN @ RAMU [PETITIONER / ACCUSED]

Vs

THE STATE REPRESENTED BY ITS [RESPONDENT]
INSPECTOR OF POLICE,
CCB - II POLICE, CHENNAI.
(CRIME NO.89 OF 2019)

For Petitioner : M/S. G. PRABHAKARAN AND ASSOCI Advocate

For Respondent : M/S. 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 offences punishable under Sections 420, 465, 467, 468, 471 and 120-B of IPC in Crime No.89 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused persons received a sum of Rs.3.38 Crores from the de facto complainant for construction business in the name of M/s.OMSAM Group. Thereafter, the accused persons neither invested the money in the business nor repaid the said amount to the de facto complainant. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the entire allegations are civil in nature. The petitioner borrowed a sum of Rs.16,00,000/- from the de facto complainant, in order to repay the said amount, the petitioner has issued cheques. However, when the same were presented for collection, they were dishonoured and hence, he is facing proceedings under Section 138 of the Negotiable Instruments Act in C.C.Nos.1441 & 1442 of 2018 and C.C.No.2616 of 2018 pending on the file of the Metropolitan Magistrate, George Town, Chennai. Further, the de facto complainant lodged the complaint in the year 2019 and the Investigating Officer has delayed the investigation and finally, found that this is a case

of civil dispute and kept the FIR pending. Hence, the learned counsel prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is arrayed as A2. The allegations against the petitioner is that he received a sum of Rs.31,00,000/- from the de facto complainant towards investing the same in the business, however, he failed to do so. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. On a perusal of the FIR, this Court finds that the petitioner has received a sum of Rs.16,00,000/- from the de facto complainant. In order to repay the said amount, he issued cheques to the de facto complainant, which were dishonoured and hence, the petitioner is facing proceedings under Section 138 of the Negotiable Instruments Act in C.C.Nos.1441 & 1442 and 2616 of 2018.

6. The learned counsel for the petitioner would submit that the petitioner, without prejudice to his defence, is ready and willing to pay some reasonable amount.

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

8. Accordingly, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crime No.89 of 2019 on the file of the respondent, within a period of four weeks from the date on which the order copy made ready, and on such deposit, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate I, Tambaram, 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 two 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/-
19/05/2022

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 JUDICIAL MAGISTRATE,
NO.I, TAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
CCB - II POLICE, CHENNAI.

5 THE METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI

CC to M/S. G. PRABHAKARAN AND ASSOCI Advocate on payment of necessary charges Sr.7426

CRL OP.11937/2022

Date :19/05/2022

RVR 20/05/2022