



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Tenth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.12546 of 2022

D.SIVARAJAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
GRAND BAZAR POLICE STATION,
PUDUCHERRY.
(CR.NO.79 OF 2022)

[RESPONDENT]

For Petitioner : M/S.B.BALAVIJAYAN Advocate

For Respondent : MR. V.BALAMURUGANE, Public Prosecutor for Puducherry

For Intervenor : MR.G.BABU, Advocate

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 Section 408 of IPC in Crime No.79 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is employed under the defacto complainant company and it is alleged that he along with other accused persons misappropriated a sum of Rs.39,76,000/-. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is working as Senior Executive Manager, Puducherry Branch of the SIS Prosegur Holding Private Ltd., and the said company is engaged in the business of cash management service that offers integrated cash management solution to private and public sector banks and also many other corporate companies. It provides ATM cash replenishment service to various government and private bank through Managed Service Providers, across India. The petitioner is the Senior Executive Manager, Puducherry Branch, and there are two



custodians, who worked under the petitioner. They are holding the money and their role is that they would receive the cash from the bank and there after they will replenish the ATM machines. While doing so, they are provided with a PIN number and Password. Therefore, the petitioner had no occurrence to access ATM machine and he had no access to handle the cash. He further submitted that to show his bonafide, the petitioner is ready and willing to deposit a part of the amount without prejudice to his right of defence. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that there are totally three accused in which, the petitioner is A3. Though the petitioner was called for enquiry on several occasions, he failed to appear. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. The allegation against the petitioner is that he misappropriated the entire amount of Rs.39,76,000/- and the occurrence took place from the month of October 2021 to March, 2022. The petitioner never appeared for enquire and he is absconding. Considering the above fact and circumstances of the case and also considering the submission made by the learned counsel appearing for the petitioner, this Court feels that the custodial interrogation of the petitioner is not necessary in this case and therefore this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is directed to deposit a sum of Rs.15,00,000/- (Rupees fifteen lakhs only) to the credit of Crime No.79 of 2022, within a period of two 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, Pondicherry, 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 deposit a sum of Rs.15,00,000/- (Rupees fifteen lakhs only) to the credit of Crime No.79 of 2022, before the concerned Magistrate, within a period of four weeks from the date on which the order copy made ready.



[c] the final order in respect of the said deposit shall be passed by the learned trial Judge at conclusion of trial.

[d] the petitioner shall appear before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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].

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

-sd/-

10/06/2022

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,
PONDICHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
GRAND BAZAR POLICE STATION,
PUDUCHERRY.



4 THE PUBLIC PROSECUTOR
PUDUCHERRY.

+1CC to M/S.B.BALAVIJAYAN
charges SR.No.8852

Advocate on payment of necessary

CRL OP.12546/2022

Date :10/06/2022

CSK 14/06/2022