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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.No.24910 of 2021

1.Karthik ...Petitioners
2.Mohamed Irfan

Versus

State represented by ...Respondents
1.The Commissioner of Police,
O/o. Commissioner of Police,
Shukrawar Peth, Rameshwar Chouk,
Budhwar Peth, Pune,
Maharashtra - 411 002.
2.The Inspector of Police,
KHADAK Police Station,
Chhatrapati Shivaji Maharaj Road,
Shukrawar Peth, Pune - 411 002.
3.The Inspector of Police,
KANATHUR Police Station,
Chennai.
4.The Inspector of Police,
SEMBIUM Police Station,
Chennai.

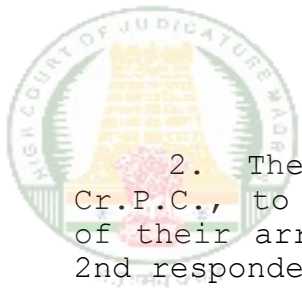
Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on Interstate Bail in the event of their arrest pending case in Crime No.423 of 2021 on the file of 2nd respondent police.

For Petitioners : Mr.F.Arif Nawaz

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

The petitioners who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 406, 420, 120B r/w 34 IPC in Crime No.423 of 2021, seeks anticipatory bail.



2. The petitioners filed this petition under Section 438 Cr.P.C., to enlarge the petitioners on Interstate Bail in the event of their arrest pending case in Crime No.423 of 2021 on the file of 2nd respondent police.

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3. The case of the prosecution is that as per the complaint is that one Mr.Prakash Joshi has transferred Rs.3 Crores to the Bank account of M/s.K.V.Solutions as advance interest amount for the loan amount of Rs.62.5 Crores to be borrowed from M/s.K.V.Solutions. After the said transfer of the advance interest amount, the accused started avoiding the calls and not returning the advance amount. The defacto complainant is just a middle agent, whose greed and misconduct led to the cancellation of the said contract and the said criminal complaint is evil product of defacto complainant with an intention to grab money from the petitioners. There was a business proposal between the 1st petitioner's company and one Mr.Prakash Joshi and the 1st petitioner had tried various means to complete the transactions and also established various options to refund the amount in the event of cancellation of the business. It was the defacto complainant who was adamant on not initiating the process of refund and also wanted to drag the matter and demanded huge amount from the petitioners else threatened to lodge a false complaint against the petitioners and others. Hence, the complaint.

4. The learned counsel for the petitioners would submit that the petitioners apprehends for the offences under Sections 406, 420, 120B r/w 34 IPC, on the file of the 2nd respondent police. Hence, he is under the apprehension of arrest and he prays for interstate anticipatory bail.

5. Heard the learned Additional Public Prosecutor appearing for the State (R2).

6. The issue as to whether, in respect of the persons, who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if his arrest is sought within the jurisdiction of this Court, irrespective of the fact that he is a resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, which came up for consideration before the Division Bench of this Court in the case of **S.P.Shanthi Swaroop v. State of Tamil Nadu , rep. By Asst. Commissioner of Police, Central Crime Branch, Madras** reported in **1992 L.W. (Cr1) .475**. After elaborate discussions, decisions and considering the ratio laid down by the **Patna High Court in Syed Safrul Hassan v. State** has passed the following order:-

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail



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irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the meantime. The reference is answered accordingly."

7. Thereafter, a learned Single Judge of this Court in the case of **P.Thangavelu and others v. State, rep. By the Inspector of Police and other** reported in **2017 (2) MWN (Cr.) 633** has passed the following orders,

"9.Thus , it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioners for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10. Accordingly, Interim Anticipatory Bail is granted to the petitioners herein till 01.08.2016. The petitioners are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

(i) Each of the petitioners shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;



(ii) within the said period, ie., before 01.08.2016, the petitioners shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

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11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

8. In view of the decisions cited supra, I am inclined to grant interim anticipatory bail to the petitioners till 02.02.2022. Accordingly, interim anticipatory bail is granted to the petitioners till 02.02.2022. The petitioners is directed to be enlarged on bail in the event of arrest or on his appearance before the second respondent police and on further condition that:

(i) the petitioners shall execute Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) on 02.02.2022 the petitioners shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

-sd/-

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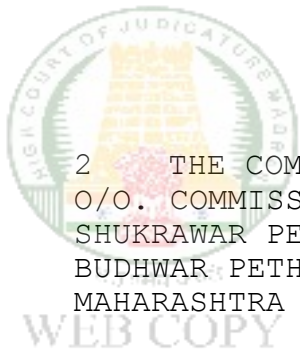
This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.



2 THE COMMISSIONER OF POLICE,
O/O. COMMISSIONER OF POLICE,
SHUKRAWAR PETH, RAMESHWAR CHOUK,
BUDHWAR PETH, PUNE,
MAHARASHTRA - 411 002.

3 THE INSPECTOR OF POLICE,
KHADAK POLICE STATION,
CHHATRAPATI SHIVAJI MAHARAJ ROAD,
SHUKRAWAR PETH, PUNE - 411 002.

4 THE INSPECTOR OF POLICE,
KANATHUR POLICE STATIN,
CHENNAI.

5 THE INSPECTOR OF POLICE,
SEMBIUM POLICE STATION,
CHENNAI.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.F.ARIF NAWAZ Advocate on payment of necessary
charges SR.NO.196

CRL OP.24910/2021

Date :05/01/2022

TA-12/01/2022