



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

RESERVED ON : 07/02/2022

PRONOUNCED ON: 11/02/2022

PRESENT

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The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.951 of 2022

1.J.John Prabhu

2.C.R.P.Benatic Andro Rathinam ... Petitioners/Accused Nos. 1&2

Vs

State represented by
The Inspector of Police,
Kalugumalai Police Station,
Thoothukudi District.

(Crime No. 283 of 2021) ... Respondent/Complainant

For Petitioners: Mr.G.Karuppasamy Pandian, Advocate

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

For Intervenor : Mrs.S.Mahalakshmi, Advocate

PETITION FOR ANTICIPATORY BAIL Under Section 438 of Cr.P.C

PRAYER :-

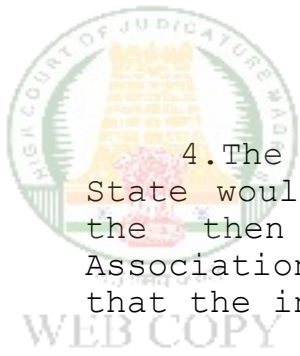
For Anticipatory Bail in Crime No.283 of 2021 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A.1 and A.2, who apprehend arrest at the hands
of the respondent police for the offences punishable under Sections
406, 408, 465, 467, 468, 471, 477A, 201, 420, 294(b) and 506(1) IPC,
in Crime No.283 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the present Secretary of
one Nadar Uravinmurai Association, Kalugumalai gave complaint by
alleging that while checking the accounts for a period from March
2011 to 25.06.2019 regarding Kamaraj Nursery and Primary school
which belongs to the said Association, it was found that a sum of
Rs.51,19,955/- was defrauded by the then Correspondent and a sum of
Rs.5,31,347/- was defrauded by the then Secretary of the said
Association. Hence, the present complaint.

3.The learned Counsel for the petitioners would submit that the
petitioners are innocents and they have not committed any offence as
alleged by the prosecution. Hence, he seeks anticipatory bail to



4.The learned Additional Public Prosecutor appearing for the State would submit that the petitioners are A.1 and A.2, who were the then Correspondent and Secretary of Nadar Uravinmurai Association, Kalugumalai and they have defrauded the amounts and that the investigation is pending.

5.Heard Mr.G.Karuppasamy Pandian, learned Counsel for the petitioners as well as Mrs.S.Mahalakshmi, learned counsel for the intervenor and Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.

6.No doubt, the petitioners earlier application for anticipatory bail in Crl.O.P.(MD)No.18384 of 2021 was ordered to be dismissed by this Court vide order dated 21.12.2021.

7.No doubt, as rightly pointed out by the learned counsel for the petitioner, this Court, taking note of the fact that the accused have destroyed some of the records and also considering the quantum of amount involved, has dismissed the earlier petition.

8.It is not in dispute that the defacto complainant is the present Secretary of Nadar Uravinmurai Association, Kalugumalai.

9.It is also not in dispute that the first accused was the former Correspondent, the second accused was the former Secretary, the third accused is the present Vice President and the fourth accused is the present President of the said Nadar Uravinmurai Association.

10.The case of the prosecution is that the defacto complainant and his team, after taking charge of the association and during audit, have found that sum of Rs.51,19,955/- was defrauded by the first accused and sum of Rs.5,31,347/- was defrauded by the second accused. It is their further case, after registration of the FIR and during investigation, they came to know that the third and the fourth accused the present office bearers of the association, have also colluded with the first and the second accused and that the third accused, who is the present Vice President, had destroyed the documents in the presence of other accused.

11.The learned counsel for the petitioners would mainly contended that internal audit and inspection have been properly done from the year of 2011 to the year of 2019 and the complete audit reports for the above said period did not spell out any misappropriation of funds rather it spells out that proper books of accounts have been maintained and also the expenses are supported by proper voucher and that therefore, the present complaint of misappropriation alleged by the defacto complainant is absolutely false and unbelievable.



12.As rightly contended by the learned counsel for the intervenor, just because of the audit reports does not speak about any misappropriation, it cannot be said that the complaint of misappropriation now acknowledged by the defacto complainant is no basis and is false.

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13.The learned counsel for the intervenor would submit that the auditors appointed by the association gave their earlier reports to the effect that proper books of accounts have been maintained and also that has been spell out by the proper voucher and that cannot be taken as a report or material to show that there was no misappropriation at all.

14.As rightly contended by the learned Additional Public Prosecutor, there is no change in circumstances, since the dismissal of the earlier petition.

15.As rightly pointed out by the learned counsel for the intervenor, it is the specific case of the defacto complainant that the third accused had destroyed the records in the presence of the first and the second accused.

16.It is also not in dispute that when the earlier petition was pending, this Court has granted the petitioners as well as the intervenor to appear before the respondent police and co-operate for the enquiry and that after such an enquiry, the respondent police has filed a status report stated that the witnesses have deposed about the destruction of records and after further investigation, he came to know that the present President and Vice President were also involved in the alleged commission of the offence and therefore, they were also added as accused.

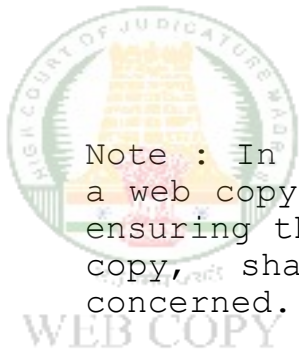
17.Considering the nature and gravity of the offence alleged against the petitioners and also taking note of the quantum of amount and also the facts that no change in circumstances, since the dismissal of the earlier petition and that investigation is not yet completed as stated by the learned Additional Public Prosecutor, this Court is not inclined to grant anticipatory bail to the petitioners.

18.In the result, this Criminal Original Petition is dismissed.

sd/-
11/02/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE INSPECTOR OF POLICE,
KALUGUMALAI POLICE STATION,
THOOTHUKUDI DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.951 of 2022
Date :11/02/2022

USK/JM/SAR-I/21.02.2022/4P/3C