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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 04/07/2022

PRONOUNCED ON: 07/07/2022

PRESENT

The Hon`ble Mr.Justice **K.MURALI SHANKAR**

CRL OP(MD). No.10884 of 2022

1. Robert Nirmal Singh

2. Robi Mohan

3. Mangalam Mary

4. Harma

5. Stella Mary

... Petitioners/Accused

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Kanyakumari,
Kanyakumari District.
Crime No. 49/2021.

... Respondent/Complainant

For Petitioner : M/s.Rajeshwaran K,
Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

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

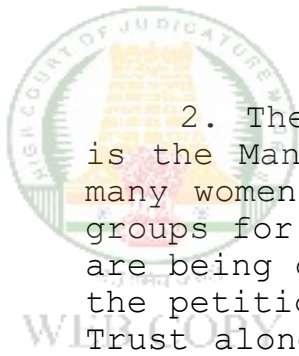
PRAYER :-

For Anticipatory Bail in Crime No.49 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused Nos.1 to 5, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 417, 426, 500, 503, 341, 294(b), 506(i), 392 and 511 I.P.C., in Cr.No.49 of 2021, seek anticipatory bail.

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2. The case of the prosecution is that the defacto complainant it is the Manager of Anugraha Trust, that the said Trust is having so many women self help groups and the Trust is recommending the said groups for borrowing loans from the Bank of India and the said loans are being cleared through the said Trust, that during December 2018, the petitioners have made propaganda that the loans are given by the Trust alone and not by the Bank of India, that the Trust is having so many cases and the said Trust was closed for the past some months and therefore, the loans need not be repaid to the Trust, that the petitioners have also alleged that a textile shop owned by the Trust are selling only old clothes, that after the said propaganda, the members of the self help group had not paid the loan amount, that on 02.10.2019, the petitioners 1 and 2 had intercepted the defacto complainant and tried to grab the collection money, and that when the same was questioned, they had abused in filthy language and threatened him with dire consequences.

3. It is the further case of the defacto complainant that the Trust had lost so many lakhs of rupees and also its reputation is at stake, that though the complaint was lodged with the police, they have not chosen to take any action and that therefore, the defacto complainant was constrained to file a private complaint under Section 156(3) Cr.P.C., before the Judicial Magistrate Court No.I, Nagercoil and based on the directions of the Court, F.I.R., came to be registered.

4. The petitioners' case is that they were cheated by one Sathish Kumar and his family members, for which the second petitioner had already given a complaint against the said Sathish Kumar and his wife and the same was registered in Cr.No.38 of 2018, on the file of the respondent police, that the second petitioner had also given another complaint against the said Sathish Kumar and another and the same was registered in Cr.No.137 of 2019, on the file of the CCB-1, Chennai, and that the said Sathish Kumar's family were running the above Trust and as a counter blast, the said Sathish Kumar had given the said complaint through his Manager against the petitioners.

5. The learned Counsel for the petitioners would further submit that the petitioners already filed a petition seeking anticipatory bail in CrI.O.P.(MD)No.18966 of 2021 and this Court has granted the relief sought for vide order dated 08.03.2022, that the petitioner could not comply with the said condition and they are unable to surrender before the Magistrate Court within the time stipulated, since the first petitioner has suddenly fell sick and the other petitioners could not able to arrange sureties, that the petitioner have filed a petition in CrI.M.P.(MD)No.4803 of 2022 seeking extension of time and this Court, vide order dated 08.03.2022 has granted two weeks further time to comply with the conditions, that



ill-health condition, they could not comply with the condition and that therefore, they are constrained to file the above application again for anticipatory bail.

6. When the earlier petition was pending, the defacto complainant has entered into appearance and raised serious objections. This Court, on considering the objections raised by the defacto complainant and the respondent police, has granted anticipatory bail with certain conditions, vide order dated 08.03.2022 and the relevant passages in the earlier order are extracted hereunder:

"5. The learned Counsel for the petitioners would submit that they have lodged the complaint for the occurrence allegedly held in the month of December 2018, after the lapse of 3 years, that the respondent police, after conducting enquiry, closed the complaint and that thereafter, the defacto complainant had approached the Magistrate Court and got the direction by giving false information and got the case registered.

6. The learned Counsel for the petitioners would further submit that the complaint lodged against the petitioners is false and frivolous, that they are hailing from a respectable family and that the said Sathish Kumar, in order to escape from the clutches of law, has lodged the above complaint.

7. The learned Counsel for the intervenor would submit that the petitioners 1 and 2 having grudge over the management of the Trust had made several attempts to attack the financial position of the Trust by playing hook or crook method, that the founder trustees have challenged the F.I.R., lodged against them in Cr.No.38 of 2018 in Crl.O.P. (MD) No.861 of 2019 and this Court, at the time of admission, has granted an order of interim stay on 10.01.2019, that subsequently, considering the submission made by the learned Additional Public Prosecutor that there was proposal to file the final report, dropping further action, passed an order dated 04.03.2020 closing the Criminal Original Petition, directing the concerned police to file a negative report within a period of three weeks from the date of receipt of a copy of that order and also directed that such filing of the final report should be informed to the defacto complainant, that subsequently, the founder trustee has also filed a petition in Crl.O.P. (MD) No.10779 of 2019, challenging the F.I.R., in Cr.No.137 of 2019, on the file of the CCB-I, Chennai and that this Court has also granted an order of interim stay on 02.08.2019, directing the CCB-I, Chennai not to file final report



against the trustee, that the petitioners, having failed in both their attempts to extract money by all sorts of illegal way along with other accused, started to propagate that the money borrowed from the Nationalised Bank through the Trust need not be paid by the borrowers.

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8. According to the petitioners, the earlier complaint given by the defacto complainant, after enquiry, was ordered to be closed. As already pointed out, on the basis of the directions issued by the jurisdictional Magistrate in the petition filed under Section 156(3) Cr.P.C., F.I.R., came to be registered against the petitioners. It is evident from the records, there existed disputes between the petitioners and the people connected with the said Anugraha Trust and there were complaints and counter complaints against each other. As rightly contended by the learned Counsel for the petitioners, even in the complaint, they have referred the propaganda that was made in December 2018 and another incident alleged to have occurred on 02.10.2019.

9. Considering the above facts and circumstances and also nature of the charges levelled against the petitioners and also taking note of the fact of the alleged incidents were occurred in December 2018 and in October 2019 and also taking note of the fact that the custodial interrogation of the petitioners is not necessary at this point of time, this Court is inclined to grant anticipatory bail to the petitioners, but with certain conditions."

7. Considering the above facts and circumstances and also the fact that this Court has already granted anticipatory bail to the petitioners and also taking note of the fact that the custodial interrogation of the petitioners is not necessary, as the alleged incidents were occurred in December 2018 and in October 2019, this Court is inclined to grant anticipatory bail to petitioners, but with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Nagercoil, Kanyakumari District, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate

<https://www.courtindia.org/> and on further condition that:



(a) the petitioners shall deposit a sum of Rs.3,000/- (**Rupees Three Thousand only**) each to the credit of the District Siddha Medical Officer CCRI PKM, A/C.No.10767823177, IFSC Code : **SBIN0000898, MICR CODE ; 625002601**, without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties.

(b) the petitioners 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;

(c) the petitioners shall report before the respondent police daily at 10.30a.m., for period of one month and thereafter as and when required for interrogation.

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

07/07/2022

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

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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.

<https://www.mhc.tn.gov.in/judis>



TO

1. THE JUDICIAL MAGISTRATE NO. I,
NAGERCOIL,
KANYAKUMARI DISTRICT.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGERCOIL.

3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, KANYAKUMARI,
KANYAKUMARI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE DISTRICT SIDDHA MEDICAL OFFICER,
CCRI PKM,
PERIYAKULAM.

+1. CC to M/s. Rajeshwaran K, Advocate SR.No. 6858

ORDER

IN

CRL OP(MD) No. 10884 of 2022

Date : 07/07/2022

RK/VR/SAR-I/14.07.2022 : 6P/7C