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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 11/07/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)Nos.11213 and 11231 of 2022

(1)Cr1.OP(MD)No.11213 of 2022:-

Subramani : Petitioner/A1

Vs.

The State rep. By
The Inspector of Police,
Dindigul DCB Police Station,
Dindigul District.
(Crime No.11 of 2022)

: Respondent/Complainant

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.Thanga Aravindh.B
Government Advocate
(Criminal side)

PETITION FOR BAIL under Sec.439 of Cr.P.C

PRAYER :- C-24B.For Bail in Crime No.11 of 2022 on the
file of the Respondent Police.



(2) Cr1.OP (MD) No.11231 of 2022 :-

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Naagarani

: Petitioner/A2

Vs.

The State rep. By
The Inspector of Police,
Dindigul DCB Police Station,
Dindigul District.
(Crime No.11 of 2022)

: Respondent/Complainant

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.Thanga Aravindh.B
Government Advocate
(Criminal side)

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

PRAYER :- C-24AB.For Anticipatory Bail in Crime No.11 of 2022 on the file of the Respondent Police.

COMMON ORDER:- The Court made the following order:-

The petitioner in Cr1.OP(MD)No.11213 of 2022, who is arrayed as A1 was arrested, on 01/04/2022 and remanded to judicial custody for the alleged offences punishable under sections 120(B), 406, 420, 294(b), 506(i) IPC, in Crime No.11 of 2022, seeks bail, whereas the petitioner in Cr1.OP(MD)No.11231 of 2022, who is arrayed as A2



apprehending arrest at the hands of the respondent for the alleged offences punishable under sections 120(B), 406, 420, 294(b), 506(i) IPC, in Crime No.11 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant lodged a complaint stating that around 2016, the first accused and the second accused contacted over phone stating that they had contact in Secretariat and political level. They promised to secure teachers job in the Government school and stated that it may require Rs. 12,00,000/-. She paid Rs.9,80,000/- by arranging money. Similarly, the accused persons were also found to have cheated her relatives to the tune of Rs.84,75,000/-. They have also promised to arrange for getting good marks in 2017 Teachers Eligible Test. Later, they contacted them with reference to return of the money and also criminal intimidated them. Further enquiry reveals that they have also cheated her sister and also her husband to the tune of Rs.52,20,000/-. Similarly, several persons have been cheated by them. On 08/12/2021, the accused persons promised to return the money on or before 15/12/2021 and executed a document also. Similarly, they have also



executed an undertaking letter to others . But in spite of the undertaking, they did not return the money. When that money was demanded, they have criminally intimidated. Based upon the complaint, the present case has been registered. A1 was arrested and remanded to judicial custody on 01/04/2022 and ever-since, he is in custody.

3. Seeking bail, A1 has filed Crl.OP(MD)No.11213 of 2022, whereas seeking anticipatory bail, A2, who is the wife of A1, filed Crl.OP(MD)No.11231 of 2022. Both petitions heard together and the intervening petition filed by the de-facto complainant in both matters also heard along with these petitions.

4. The learned counsel appearing for the petitioner/A1 would submit in respect of the very same transaction, the first accused was arrested in Crime No. 468 of 2017 and after six months of incarceration, he was released on statutory bail, since the statutory period was over. After six months, the present complaint came to be filed in respect of the very same transaction.



5. When this line of argument was advanced, learned Additional Public Prosecutor and the learned counsel appearing for the intervenor/de-facto complainant would submit that those transactions are entirely different and these petitioners cheated several persons promising to secure job in various Departments and several complaints have also been registered against them. This transaction is not covered in the above said crime.

6. According to the learned counsel appearing for the intervenor/de-facto complainant, the incarceration period in the above said crime, cannot be taken into account. He has also produced the particulars of the cases, in which the petitioners are involved.

7. Reading of the list shows that a big scam occurred in it and around Rs. 2.70 crores is involved. It is also seen that the petitioners try to touch every field starting from teachers in the Government schools to Professors, Special Teachers, TNPS Group IV employment, etc. How much amount was received from those persons is also not clear on record. It is a matter for investigation.



8. So the contention on the part of the petitioners that this transaction is squarely covered in the above said crime namely Crime No.468 of 2017 is not at all acceptable, since every issue has its own independent transaction. If at all the petitioners can claim only joint trial. The persons of such a character deserves no consideration at all.

9. But however, the learned counsel appearing for the first petitioner/A1 would submit that the petitioner/A1 is in custody for more than the statutory period. On that sole ground, he is entitled for bail. No doubt that A1 is in prison for more than statutory period.

10. The learned counsel appearing for intervenor/De-facto complaint would submit that a condition may be imposed upon him to deposit the entire amount involved in the above said issue.

11. The learned counsel appearing for the petitioner/A1 would submit that the intervenor is also equally responsible to be proceeded with the criminal



12. But contra, the learned counsel appearing for the intervenor/de-facto complainant would submit that only the accused persons contacted them voluntarily by giving false promise. Whether the intervenor can be proceeded for the attempt to have a back door entry, is a matter for investigation.

14. Section 167(2) CrI.P.C reads as under:-

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thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that-(a) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days; if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding,-

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish



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bail, and every person released on bail under this sub- section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;]

(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police."

15. Section 167(2) Cr.P.C has its own significance. The accused as a matter of right be released on bail, when he proposed to give surety. The Hon'ble Supreme Court in the decision reported in the case of Saravanan Vs. State represented by the Inspector of Police (Criminal Appeal Nos. 681682 of 2022, dated 15/10/2022) has clarified the position to the effect that no such condition for depositing the money can be imposed, while the accused is released on default bail. So the request that has been made by the intervenor/de-facto complainant is out of place and cannot be accepted.



16. So, CrI.OP(MD)No.11213 of 2022 is liable to be allowed on condition that the petitioner/A1 must appear before the respondent police and cooperate with them for the completion of the process of investigation. Accordingly, the **petitioner/A1 is ordered to be released on bail** with certain conditions. Accordingly, the petitioner/A1 is ordered to be released on bail on his executing 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 learned Judicial Magistrate No.II, Dindigul and on further condition that the petitioner shall report before the respondent police daily at 10.30 am until further orders.

CrI.OP(MD)No.11231 of 2022:-

17. In so far as the petitioner/A2 in CrI.OP(MD)No. 11231 of 2022 is concerned, she seeks anticipatory bail.

18. The learned counsel appearing for the petitioner/A2 would submit that absolutely, this petitioner/A2 is noway connected in the transaction took place between the de-facto complainant and A1. She was roped on the ground that she is a Government Employee and the wife of A1.



19. But the learned counsel appearing for the intervenor/de-facto complainant would submit that promise was made by all the accused persons. Similarly, both of them received money. Whether this petitioner/A2 is involved in the above said transaction is a matter for investigation. The earlier anticipatory bail application filed by this petitioner/A2 came to be dismissed by this court in CrI.OP(MD)No.7874 of 2022, dated 12/05/2022 on the ground that the amount that was involved in the above transaction was a huge one and several investments have been made in the name of this petitioner/A2 and huge properties have also been purchased out of the profit of crime. So, considering the magnitude of the offence, that was dismissed.

20. So, I find absolutely no change of circumstances. Simply because, this petitioner/A2 is a Government Teacher, she cannot claim any special status. Since the allegations are very serious and *prima facie* materials have been collected during the course of investigation, as we find it from the CD file, this petitioner/A2 is not entitled to the discretionary relief of anticipatory bail. So, She must undergo the custodial interrogation



and the offence of such magnitude must be properly investigated and truth must be brought on record. So, I find no merit in this petition. Accordingly, the Crl.OP (MD) No. **11231 of 2022 stands dismissed.**

11/07/2022

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Inspector of Police,
Dindigul DCB Police Station,
Dindigul District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The District Prison,
Dindigul.



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G. ILANGO VAN, J

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Cr1.OP (MD) Nos.11213 and 11231 of 2022

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