

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 10.10.2022

PRESENT

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

CRL OP(MD). No.16211 of 2022

1.J.John Prabhu

2.C.R.P.Benedict Anro Rathinam ... Petitioners/ Accused 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.N.Anantha Padmanabhan, Advocate
for Mr.A.K.Baskara Pandian, Advocate

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)

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, 477-A, 201, 420, 294(b) and 506(1) of 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 a 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/first petitioner and a sum of Rs.5,31,347/- was defrauded by the then Secretary/second petitioner of the said Association.

3. The further case of the prosecution is that after registration of the FIR and during investigation, they came to know that the third and the fourth accused, who are 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.

4. 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 the petitioners.

5. The learned Government Advocate (Criminal Side) 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.

6. No doubt, the earlier applications for anticipatory bail filed by the petitioners in CrI.O.P.(MD)Nos.18384 of 2021 and 951 of 2022 were ordered to be dismissed by this Court vide orders dated 21.12.2021 and 11.02.2022.

7. When the matter was taken up for hearing earlier, the learned counsel for the petitioners would submit that the first petitioner is ready to deposit a sum of Rs.15,00,000/- and the second petitioner is ready to deposit a sum of Rs.2,50,000/- and the first petitioner is also ready to produce the title deeds stands in the name of the first petitioner.

8. Accordingly, the learned counsel for the petitioners has filed undertaking affidavits dated 10.10.2022 and 22.09.2022, wherein, the first petitioner has given an undertaking to deposit a sum of Rs.15,00,000/- and also produce the title deeds with respect to two properties before the trial Court and whereas, the second petitioner has given an undertaking to deposit a sum of Rs.2,50,000/-.

9. Since the learned counsel for the intervenor/defacto complainant has disputed the value of the properties, the learned counsel for the petitioners has produced valuation certificate issued by the Licenced Surveyor and has given a report stating that the value of the first property is about Rs.15,24,000/- and the second property is about Rs.10,10,000/-.

10. Considering the above facts and circumstances and also taking note of the undertaking affidavit filed by the petitioners and their undertaking to produce the title deeds before the concerned Court, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

11. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on 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.1, Kovilpatti, 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 learned Magistrate concerned and on further conditions that:

[a]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 Aadhaar card or bank pass book to ensure their identity;

[b]the first petitioner shall deposit a sum of **Rs.5,00,000/- (Rupees Five Lakhs only)** before the learned Judicial Magistrate No.1, Kovilpatti, to the credit of Crime No.283 of 2021 without prejudice to his rights and contentions within a period of one week from the date of receipt of a copy of this order and, deposit the remaining amount of **Rs.10,00,000/- (Rupees Ten Lakhs only)** within a period of two weeks thereafter, failing which, the anticipatory bail granted to the first petitioner shall stand automatically cancelled;

[c]the second petitioner shall deposit a sum of **Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only)** before the learned Judicial Magistrate No.1, Kovilpatti, to the credit of Crime No.283 of 2021 without prejudice to his rights and contentions within a period of one week from the date of receipt of a copy of this order, failing which, the anticipatory bail granted to the second petitioner shall stand automatically cancelled;

[d] the first petitioner shall produce the title deeds with respect to two properties as per the undertaking affidavit;

[e] the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders;

[f]the petitioners shall not tamper with the evidence or witness either during investigation or trial;

[g]the petitioners shall not abscond either during investigation or trial;

[h]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]**.

[i]If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
10/10/2022

/ TRUE COPY /

/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

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 JUDICIAL MAGISTRATE NO.I,
KOVILPATTI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KALUGUMALAI POLICE STATION,
THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.K.BASKARA PANDIAN, Advocate (SR-11107[I] dated 10/10/2022)

ORDER
IN
CRL OP(MD) No.16211 of 2022
Date :10/10/2022

PKP/GB/SAR-1/12.10.2022/4P/6C