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

Dated: 10/01/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)Nos.19028, 20412, 20329, 18671 and 20327 of 2021

(1).Crl.OP(MD)No.19028 of 2021:-

Ushen Akbar : Petitioner/Accused No.1

Vs.

The State rep. By
The Inspector of Police,
DCB, Virudhunagar,
Virudhunagar District.
(Crime No.21 of 2021) : Respondent/Complainant

For Petitioner : Mr.M.Ajmal Khan, Senior counsel for M/s.Ajmal Associates
For Respondent : Mr.SS.Madhavan Government Advocate (Criminal side)

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

PRAYER :- For Anticipatory Bail in Crime No.21 of 2021 on the file of the Respondent Police.

(2).Crl.OP(MD)No.20412 of 2021:-

Shanmuga Sundaram : Petitioner/ Accused No.2

Vs.

The State rep. By
The Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.21 of 2021) : Respondent/Complainant

For Petitioner : Mr.G.Prabhu Rajadurai, Advocate
For Respondent : Mr.R.Meenakshi Sundaram, Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.21 of 2021 on the file of the Respondent Police.

(3).Crl.OP(MD)No.20329 of 2021:

C.Gokula Krishna Moorthy : Petitioner/Accused 3

Vs.

The State rep. By
The Inspector of Police,
DCB, Virudhunagar.
(Crime No.21 of 2021) : Respondent/Complainant

For Petitioner : Mr.S.Ramsundarvijayraj
for M/s.Veera Associates

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

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

PRAYER :- For Bail in Crime No.21 of 2021 on the file of the Respondent Police.

(4)Crl.OP(MD)No.18671 of 2021:-

Syed Mohammad : Petitioner/Accused No.4

Vs.

The State rep. By
The Inspector of Police,
DCB, Virudhunagar,
Virudhunagar District.
(Crime No.21 of 2021) : Respondent/Complainant

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates

For Respondent : Mr.SS.Madhavan
Government Advocate (Criminal side)

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

PRAYER :- For Anticipatory Bail in Crime No.21 of 2021 on the file of the Respondent Police.

(5).Crl.OP(MD)NO.20327 of 2021:-

Bilal Mansoor : Petitioner/Accused Rank Not known

Vs.

The State rep. By
The Inspector of Police,
DCB, Virudhunagar,
Virudhunagar District.
(Crime No.21 of 2021) : Respondent/Complainant

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates
For Respondent : Mr.SS.Madhavan
Government Advocate (Criminal side)

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

PRAYER :- For Anticipatory Bail in Crime No.21 of 2021 on the file of the Respondent Police.

COMMON ORDER

1.Crl.OP(MD)No.19028 of 2021:-

This petitioner, who is arrayed as A1 apprehending arrest at the hands of the respondent police for the alleged offence under sections 120-B, 408, 420 IPC, in Crime No.21 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that A1 served as Head Clerk during the relevant period of the above said occurrence and misappropriated more than 28.10 lakhs from the Government Account which was meant for the compensation awarded to the victim of road accident as well as the legal heirs of the deceased persons. Based upon the complaint given by the Additional District Judge, Virudhungar, the above said case has been registered.

3.Even though A1 retired from the service later it came to the know that some sort of discrepancies occurred in the above said compensation account, as per the order of this court a team of the Officers were formed to inspect and verify the accounts. It is very unfortunate that A1 who was appointed as one of the Inspection Officers alleged to have involved in such sort of illegal activities. After registration of the FIR, it appears that he attempted to commit suicide and was hospitalised for some time. Now he has been discharged. He filed this application seeking bail on the ground that when the matter was originally, as per the direction of this court, the amount which was involved in the above said crime has been deposited in the court. He has also produced the deposit challan. So on that score, he seeks bail. A report has been called for from the Principal District Judge, Virudhunagar as to whether the amount is correct one and whether some more money has also been involved. He has also submitted a letter, dated 08/12/2021 stating that still the process of inspection is going on. Apart from the said amount of Rs.28,10 Lakhs another amount of Rs.4,52,786/- was also found to be misappropriated. The operative portion of the letter reads as follows:-

> *“It is further humbly submitted that on further verification of records, 2 more transactions are found to be doubtful and we are in the process of checking the*

veracity of the transactions and we have addressed a letter to the State Bank of India, Virudunagar, for details on the above said 2 transactions. WE will be confirming the above said transactions as misappropriation or not by getting the documents from the State Bank of India, Virudhunagar. The total amount of the above 2 doubtful transactions comes to Rs.2,24,000/-. Hence, the total amount of misappropriation including the said in 2 transactions which are to be verified will be around Rs.34,86,786/-.

4.Reading of this portion of this letter of the Principal District Judge, who is now appointed as nodal officer to look after the above said inspection process shows that some more amount is also involved. What is the exact amount will be found out only in the final conclusion. So till then the actual amount may not known to any one.

5.Coming back to the request, even though the A1 has happened to attempt to commit suicide, this court of the view that his is a serious offence involving in misappropriation of the amount, which is due to be paid to the sufferers of the road accident, the money belongs to the sufferers also. It is also very unfortunate that the proper inspection was not done during the inspection before to earth-out the misappropriation. But there can be no no reason stating that there was a delay on the part of the administration in ordering the proper inspection. Considering the seriousness of the offence, this court is not inclined to grant anticipatory bail to the petitioner. If such discretionary relief is exercised in favour of this petitioner/A1, the trust which the people are having upon the court will be the causality. It is an ordinate because of misappropriation by an employee, but he misappropriated the amount which is due to the sufferers. So considering the serious nature of the offence as well as still the inspection is going on this court is not exercised the discretionary power. Accordingly, this petition is liable to be dismissed and it is **dismissed.**

2.Crl.OP(MD)No.20412 of 2021:-

The petitioner who is arrayed as A2, was arrested and remanded to judicial custody on 22/11/2021 for the alleged offences under sections 120(B), 408, 420 IPC in Crime No.21 of 2021 on the file of the respondent police, seeks bail.

2.Narration of facts and considering A1 is sufficient and this petitioner Shanmuga Sundaram, who is arrayed as A2 and he was working as Office Assistant during the relevant period time. At the request made by A1, he allowed the him the operate and use his account for the purpose of the above said transactions. Actually he has not involved in the above said misappropriation. Since he was working as a subordinate of A1, he had no other choice, but to oblige him. The entire amount has been paid. He has not involved in any other previous case.

3.For the purpose of finding of the role that has been made by this petitioner and other accused, the entire CD file has been called for and perused.

4.Ongoing through the CD file, I find that this petitioner actually involved in the above said offence. He has full knowledge about the source of amount which was credited in his account. A plea has been raised by the learned counsel for this petitioner, here it is usual to use the account of other people in case of urgency.

5.No doubt that is a friendly gesture, but my question is that what steps have been taken by this petitioner the amount was credited in his account belonging to the government. No reasonable explantation was offered.

6.The learned Additional Public Prosecutor would submit that this petitioner also received some reward for the above said illegal misappropriation and the amount involved in the above said reward is also not clear on record. How he benefited by the above said transaction as mentioned earlier will come to light only during the course investigation. Even though the petitioner is in custody from 21/11/2021, considering the seriousness of the offence, if he is released on bail, there is every likelihood of absconding or tampering the evidence.

6.So, this petitioner is also not entitled to the relief of bail at this state. Accordingly, this petitioner is **dismissed.**

3.**Crl.OP(MD)No.20329 of 2021**:

The petitioner/A3 was arrested on 24/11/2021 and remanded to judicial for the alleged offences punishable under section 408, 420, 120(B) IPC, in Crime No.21 of 2021 on the file of the respondent police, seeks bail.

2.This petitioner is stated to be the friend of the son of A1 and his son has been included as A5 in the above said crime.

3.Perusal of the entire CD file for the purpose of ascertaining the role that has been played by this petitioner has been perused. During the course of investigation, now materials have been collected by the investigating officer to the effect that only at the request made by A5, this petitioner alleged to be allowed the illegal transaction to be carried out through his account.

4.The learned counsel appearing for the petitioner argued that this petitioner is only the friend of the son of A1 and only on that basis, he allowed his account to be utilised for the purpose of transferring the amount. According to him, a fictitious person informed this petitioner that the fictitious person is his son in law and he is working in aboard and money has to be transmitted to his account and that was obliged by him. As mentioned earlier, perusal of the entire CD file shows that contra facts and only at the instance of A5, it appears that this petitioner also is involved in the above said case. Enquiry reveals that this amount has been transferred from the government account and not the fictitious person account as argued by the learned counsel appearing for the petitioner.

6.The learned Additional Public Prosecutor would submit that this petitioner was also rewarded. How much amount received and rewarded is not clear on record. If the petitioner is released on bail, there is every likelihood of absconding and tampering the evidence also, even though he is custody from 24/11/2021.

6.In view of the above, I am of the considered view that this is not a fit case to enlarge the petition on bail. Accordingly, this petition is **dismissed.**

(4)Crl.OP(MD)No.18671 of 2021:-

This petitioner who is arrayed as A4 apprehending arrest at the hands of the respondent for the alleged offences punishable under sections 120-B, 408 and 420 IPC, in Crime No.21 of 2021, seeks anticipatory bail.

2.This petitioner is arrayed as A4 and he seeks anticipatory bail. The 2nd daughter of A1 is married to the son of this petitioner. So it appears that he is close relative of A1. The learned Senior counsel appearing for the petitioner would submit that absolute the petitioner is not involved in the above said affairs of A1 and the involvement of A1 came to his notice only when the case is registered. Now the entire family members arranged money and deposited the same. According to him, since this petitioner is not involved in the above said financial affairs of A1, now the family members, relationship between the family members is also affected because of this issue. Perusal of the entire CD file shows that no materials have been collected so far to show the involvement of this petitioner in the above said illegal misappropriation. A stray sentence is available in the CD file that he also received money from A1. Further details are not available.

3.It is further seen that Rs.7.10lakhs to the account of one Sethu and whether the said Sethu is present accused is a mater for investigation. But however, the account number is available. So the petitioner must produce his passbook and statement of the account to the respondent police at the time of investigation.

4.Further, from the letter of Tmt.N.Kalavathi, who was the then Head Clerk, it has been mentioned that Rs.7,10 lakhs has been transferred to Sethu Account and it was verified and it was found that the account belongs to this petitioner. So considering the above facts and circumstances and this petitioner is not directly involved in the above said affairs and also no materials have been collected so far, this court is inclined to grant interim anticipatory bail to the petitioner for a period of two months only.

5.Accordingly, **interim anticipatory bail is granted to this petitioner/A4 namely Syed Mohammad <u>for a period of two months,</u>** 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, Virudhunagar and the petitioner shall appear before the respondent police daily at 10.00 a.m. until further orders for the purpose of investigation. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously. Depending upon the further investigation, further orders will be passed in this petition.

<u>(5)Crl.OP(MD)No.20327 of 2021:-</u>

This petitioner, who is arrayed as an accused apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 120-B, 408 and 420 IPC, in Crime No.21 of 2021, seeks anticipatory bail.

2.The petitioner is facing the charges for the offences under sections 120-B, 408 and 420 IPC. This petitioner is stated to be the son of A1.

3.On perusal of the entire CD file, as mentioned earlier, the petitioner is the man who requested A2, to utilise his account for the purpose of the above said transfer of money. During the course of investigation, it was found that this petitioner is also received money, how he got the money and benefited is not clear on record. It is a matter investigation.

4.Considering the role, that has been played by this petitioner, the custodial interrogation of the petitioner is very much required. So this petitioner is not entitled to the discretionary relief of anticipatory bail in his favour. Accordingly, this petition is **dismissed.**

sd/-
10/01/2022

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

TO
1 THE JUDICIAL MAGISTRATE NO.II,
VIRUDHUNAGAR.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILIPUTTUR.

3 THE OFFICER INCHARGE,
SUB JAIL, SRIVILLIPUTHUR.

4 THE OFFICER INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.

5 THE INSPECTOR OF POLICE,
DCB, VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-182[I] dated 11/01/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-180[I] dated 11/01/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-181[I] dated 11/01/2022)

ORDER IN
Crl.OP(MD)Nos.19028, 20412,
20329, 18671 and 20327 of 2021
Date :10/01/2022

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