BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/03/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.3552 of 2023

Selvaraj.M ... Petitioner/Accused No.2

Vs

The State Rep.by
The Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.
Crime No.30 of 2022. ... Respondent/Complainant

A.Maria Selvaraj ... Petitioner/Defacto Complainant/Intervenor
IN crl MP(MD) No.3318/2023

For Petitioner : M/s.Saravanan.A,
Advocate.
For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)
For Intervenor : Mr.T.K.Gopalan

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

PRAYER :-

For Anticipatory Bail in Crime No.30 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 409, 420 and 506(i) of I.P.C., in Crime No.30 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complaint, is that he was the successful tenderer for supply of Toor Dal to Tamil Nadu Civil Supplies Corporation. The further allegation is that the de-facto complainant had sourced pulses from various traders and in the course of such trade, the first accused and the petitioner allegedly promised to supply 1000 tons of Toor Dal at a particular price. The further allegation is that after orally agreeing for the price and quantum of supply between 30.07.2021 to

17.08.2021, Rs.8,10,00,000/- were paid by the de-facto complainant. The further allegation is that only 531 tonnes were supplied and the balance has not been supplied. The de-facto complainant alleged that they paid Rs.8,10,00,000/- towards the value of the total consignment and that the accused have neither returned the money nor supplied pulses. The further allegation is that Rs.60,00,000/- worth of pulses were supplied by the petitioner and the balance amount of Rs.2,80,30,517/- was not repaid and thereby, the petitioner had cheated. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is arrayed as A2 in this case. He would further submit that the petitioner's company is a separate entity doing independent business with the de-facto complainant from July 2021 to August 2021. During the relevant period, the petitioner's company as an individual entity, has received an amount of Rs.8,55,68,969/- and had supplied 1000 tonnes of Toor Dal to the same amount and as far as the petitioner is concerned, there is no dues to the de-facto complainant, whereas, during the same time, the petitioner's brother was also doing independent business with the de-facto complainant and there was some short supply in respect of the amounts paid to him. In order to put pressure on the petitioner's brother to settle the claim, the de-facto complainant has given a false complaint impleading the petitioner who has nothing to do with the business of his brother/A1. He would further submit that earlier the de-facto complainant had given a complaint before the respondent police on 10.03.2022 in respect of the very same transaction, in which, the de-facto complainant has not implicated the petitioner. Now in order to put pressure, the complaint has been given falsely implicating the petitioner. He would further submit that a case of supply of goods and non-repayment by A1, has been now projected as a case of cheating. He would further submit that admittedly, there were transactions between the petitioner's brother and the de-facto complainant from 30.07.2021 to 17.08.2021. He would further submit that the petitioner's company is a separate entity, namely, Arunachala Impex Private Limited, which is registered under the Companies Act, in which, the petitioner's wife is the Managing Director and apart from the petitioner, there are three other Directors in the company, whereas, the GST registration also shows that the petitioner's company is totally a different entity. He would further submit that the entire case of the prosecution is borne out by documents and the petitioner also understands that the investigation has been completed and the final report has also been filed and it is yet to be taken on file. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that it is a case where the petitioner and his brother have induced the de-facto complainant and in the course of the transaction, they have not supplied Toor Dal to the tune of Rs.2,80,30,517/-. However, he would submit that the investigation has been completed and the final report has been filed. Hence he would opposed for g of anticipatory bail.

5.The learned counsel for the intervenor would submit that the petitioner and his brother have induced the de-facto complainant and they have cheated the de-facto complainant by not supplying Toor Dal. He would further submit that the petitioner has in a calculated manner, cheated the de-facto complainant and hence, he would object for grant of anticipatory bail.

6.Heard. Perused the materials available on record.

7.Taking into consideration the facts and the submissions and that the investigation has been completed and the final report has also been filed before the concerned Court, this court is inclined to grant anticipatory bail to the petitioner with certain conditions:

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate Court No.II, Dindigul, Dindigul District, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner 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.

[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[f] If the accused thereafter absconds, a fresh FI[QR code] be registered under Section 229A IPC.

sd/-
01/03/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO.II, DINDIGUL

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, DINDUGAL DISTRICT.

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

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

+2 CC to M/s.A.SARAVANAN, Advocate (SR-3159[I] dated 02/03/2023)

+1 CC to M/s.T.K.GOPALAN, Advocate (SR-2222[I])

ORDER
IN
CRL OP(MD) No.3552 of 2023
Date :01/03/2023

SS/RR/SAR II(08.03.2023) 4P 8C