



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

Wednesday, the Fifteenth day of March Two Thousand and Twenty Three  
PRESENT

**The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN**

CRL MP(MD) No.11293 & 8201 of 2022

IN

CRL OP(MD) No.5383 of 2022

ANIL MARANGOLY THOMAS

... PETITIONER/DE-FACTO COMPLAINANT  
IN CRL MP(MD).11293/2022

1 S.VANITHA JOSE

2 S.SOPHIYA RACHEL

... PETITIONERS/PETITIONERS  
IN CRL MP(MD).8201/2022

Vs

1 State Rep.by  
THE INSPECTOR OF POLICE  
DISTRICT CRIME BRANCH,  
THOOTHUKUDI DISTRICT.  
(CRIME NO.28/2018)

... RESPONDENT/RESPONDENT/COMPLAINANT  
IN CRL MP(MD).11293/2022

... RESPONDENT/RESPONDENT  
IN CRL MP(MD).8201/2022

2 S.VANITHA JOSE

3 S.SOPHIYA RACHEL

... 2ND & 3RD RESPONDENTS/PETITIONERS  
/ACCUSED (RANK NOT KNOWN)  
IN CRL MP(MD).11293/2022

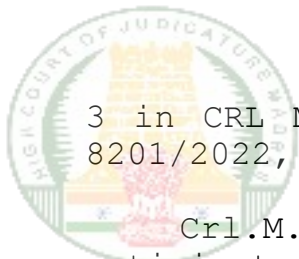
PRAYER IN CRL MP(MD) No.11293 of 2022 :

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to cancel the order of anticipatory bail granted by this Honble Court in Crl.OP(MD)No.5383/2022 dt.10/6/2022.

Prayer in CRL MP(MD). 8201/ 2022 :

To modify the condition imposed on the petitioners directing to deposit Rs.10,00,000/- each before the learned Judicial Magistrate No.III, Thoothukudi in Crime.No.28 of 2018 in Crl.O.P.(MD) No.5383 of 2022, dt.10/06/2022

Common Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.MOUSHIKA, Advocate for M/S.ANAND R, Advocate for the petitioner and of MR.B.THANGA ARAVINDH, Government Advocate (Crl.Side) on behalf of the 1<sup>st</sup> Respondent in CRL MP(MD).11293/2022 and on behalf of the Respondent in CRL MP(MD).8201/2022 and MR.S.M.ANANTHA MURUGAN, Advocate on behalf of the Respondent Nos.2 &



3 in CRL MP(MD).11293/2022 and for the petitioners in CRI 8201/2022, the court made the following order:-

Crl.M.P(MD)No.11293 of 2022 has been filed to cancel the anticipatory bail granted to the respondents 2 and 3/accused in Crl.O.P(MD)No.5383 of 2022, dated 10.06.2022, on the ground that the respondents 2 and 3 failed to comply with the conditions imposed by this Court.

2.Crl.M.P(MD)No.8201 of 2022 has been filed to modify the condition imposed on the petitioners directing to deposit a sum of Rs.10,00,000/- each before the learned Judicial Magistrate No.II, Thoothukudi in Crime No.28 of 2018 in Crl.O.P(MD)No.5383 of 2022, dated 10.06.2022.

3.The respondents 2 and 3 are arraigned as Accused Nos.2 and 3 in the complaint lodged by the petitioner/defacto complainant in Crime No.28 of 2018.

4.The crux of the complaint is that the defacto complainant dealing with the business of importing iron scrap in a large quantity from overseas and such imported item would be given to the intending customers, who, on receipt of the same, used to convert it as steel bars and sell the same to their retailers. During the course of business, the accused persons being the Directors of TABGHA Rolling Mills Private Limited, Peravoorani Village, Thoothukudi, induced the defacto complainant that in the event of supplying iron scrap to be imported from foreign countries, they would make the payment without any delay and fail. Believing their version, as requested by the respondents 2 and 3 herein, the goods were supplied by nine shipments and thereafter, they also paid money. In such a way, the further transaction also would be honoured in the means of money and accordingly, the shipments from various countries have been made to be exported by having the invoices in the name of the company owned by the respondents 2 and 3.

5.Taking advantage of the fact that the invoices were being in the name of the TABGHA Rolling Mills Private Limited, the accused persons cleared the goods through the Customs Department by paying the duty and after getting the custody of all those imported iron scraps, had not turned to make payment. The accused persons have evaded making payment. They failed to pay a sum of Rs.1,46,06,486.40/-. After registration of F.I.R., the first accused was arrested and remanded to judicial custody. The first accused filed a bail application in Crl.O.P(MD)No.7307 of 2022 and this Court by order dated 22.04.2022, directed the first accused to deposit a sum of Rs.58,00,000/- and granted bail. After granting bail, the first accused duly complied with the conditions.

6.The respondents 2 and 3, who are arraigned as Accused Nos.2 and 3, filed anticipatory bail petition in Crl.O.P(MD)No.5383 of



2022 and this Court, by order, dated 10.06.2022, granted anticipatory bail on the following conditions:-

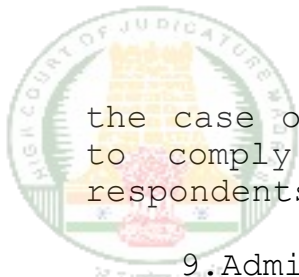
"7. Accordingly, this Court is inclined to grant anticipatory bail to the petitioners and the petitioners are directed to deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) each, before the learned Judicial Magistrate No.III, Thoothukudi District, to the credit of Crime No.28 of 2018 without prejudice to their rights and contentions.

8. On such deposit, 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.III, Thoothukudi 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 learned Magistrate."

However, respondents 2 and 3 herein failed to comply with the said condition. In the meanwhile, they also filed a petition for modifying the condition imposed by this Court.

7. The learned counsel appearing for the respondents 2 and 3 herein would submit that the respondents 2 and 3 are sleeping partners, and they never participated in the day-to-day affairs of the company. Therefore, they are not liable to pay the amount. In fact, while granting bail to the first accused, he was directed to deposit a sum of Rs.58,00,000/-. Therefore, the condition imposed by this Court is onerous, and it is liable to be cancelled. In support of his contention, he relied upon the Judgment of the Honourable Supreme Court in **Amarjit Singh Vs. State of NCT of Delhi** reported in **(2009) 13 SCC 769**, in which, the Honourable Supreme Court of India held that anticipatory bail granted to the accused subject to a deposit of Rs.15 lakhs in form of FDR is unreasonable and set aside.

8. If the condition imposed by the court below is unreasonable, then the Judgment of the Honourable Supreme Court of India is applicable to the case on hand. Whereas, in the case on hand, the respondents 2 and 3 admittedly, are the Directors of TABGHA Rolling Mills Private Limited. They fabricated the invoice of the defacto complainant and cleared the goods from the customers. Therefore, the intention of the respondents 2 and 3 are very clear and in order to cheat the defacto complainant, they fabricated an invoice and produced it before the customs authority for the release of the goods. Thereafter, they failed to pay the amount to the tune of Rs.1,46,06,486.40/-. Therefore, this Court rightly imposed the condition and it is quite reasonable. Further, the Judgment cited by the learned counsel appearing for the petitioner is not helpful to



the case on hand. Though this Court affirmed the extension to comply with the condition imposed by this Court, but the respondents 2 and 3 are not agreeing for the same.

9. Admittedly, the respondents 2 and 3 failed to comply with the condition imposed by this Court and as such, the anticipatory bail granted to the respondents 2 and 3 cannot be sustained further. Accordingly, Crl.M.P(MD)No.11293 of 2022 is allowed by cancelling the anticipatory bail granted to the respondents 2 and 3 in Crl.O.P (MD)No.5383 of 2022, dated 10.06.2022 and the first respondent is at liberty to secure the respondents 2 and 3 and proceed in accordance with law and Crl.M.P(MD)No.8201 of 2022 is dismissed.

sd/-

15/03/2023

/ TRUE COPY /

/03/2023

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

ps

TO

- 1 THE JUDICIAL MAGISTRATE NO.III, THOOTHUKUDI DISTRICT.
- 2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,  
THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.11293 & 8201 of 2022

IN CRL OP(MD) No.5383 of 2022

Date :15/03/2023

RS/CG/SAR-2(24.03.2023) 4P 5C