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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.03.2023

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP (MD) .Nos.18569, 18571, 21280, 22642 of 2022

Balasubramanian

...Petitioner/Accused No.3
in Cr1.O.P (MD) No.18569/22/A3

1.Siva Subramanian

2.Neelakandan

...Petitioners /Accused No.1&2
in Cr1.O.P (MD) No.18571/22/A1&A2

1.Paun @ Palaniyappan

2.Joseph Jayakumar

3.Alex

4.Arockia Ravi

5.Selvaraj

6.Murugesan

7.Francis Xavier

...Petitioners/Accused Persons
Rank Not Known
in Cr1.O.P (MD) No.21280/2022

1.Selvam

2.Senthil Kumar

3.Sekar

...Petitioners/Acused
in Cr1.O.P (MD) No.22642/2022

Vs.

1.The Inspector of Police,
City Crime Branch Police Station,
Trichy District.
(Crime No.12 of 2020)

... Respondent/Complainant



2.P.Velusamy

CRL OP (MD) .Nos.18569, 18571, 21280, 22



22

...Intervening Petitioner
Defacto Complainant
in CRL MP (MD) Nos.12899,12893,
15172 & 16246 of 2022

For Petitioner

in Crl.O.P (MD) No.18569/22 :Mr.S.Sarvagan Prabhu

For Petitioners

in Crl.O.P (MD) No.18571/22 :Mr.Vivek Bharathi
& Crl.O.P (MD) No.22642/22

For Petitioners

in Crl.O.P (MD) No.21280/22 :Mr.M.Karuppasamy

For Respondent : Mr.B.Thanga Aravindh
in all petitions Government Advocate (Crl.side)

For Intervenor : Mr.N.Anandha Padmanabhan
in all petitions Senior Counsel
for Mr.C.Kanagaraj, Advocate

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

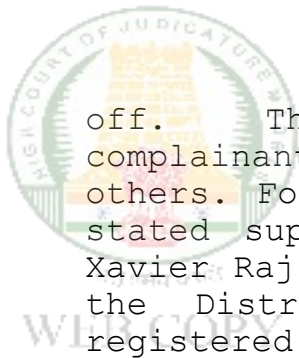
COMMON PRAYER :-

For an Anticipatory Bail in Crime No.12 Of 2020 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners, who are the Accused, apprehending arrest at the hands of the respondent police for the offence punishable under Sections 120(b), 420, 448, 379, 468, 469, 195, 196 & 201 of IPC, on the file of the respondent police, seek anticipatory bail.

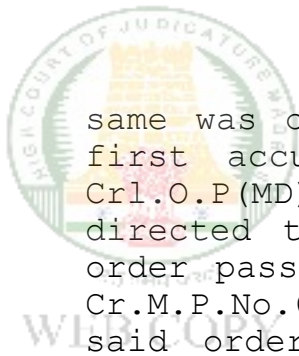
2.The case of the prosecution is that the defacto complainant has been doing construction business in the name and style of Vignesh Construction. For his business, he was in need of construction materials. While so, the defacto complainant came to know that one Xavier Raj is having Iron Workshop and he has been manufacturing and selling the construction materials. Hence, the defacto complainant approached the said Xavier Raj and purchased the construction materials and he has been doing his construction business. While so, one Radhakrishnan, Sekar and Madhavan approached the defacto complainant and stated that they leased out their old construction materials to the above said Xavier Raj. In turn, he has leased out the same to the defacto complainant and asked the defacto complainant to return their construction materials. For that, the defacto complainant replied that he has not taken the materials for rent. But he has purchased the same from one Sridhar Xavier Raj and he has shown some bills, hence, they went



off. Thereafter, on Sivasubramanian approached the complainant and claimed as stated supra by the Radhakrishnan and others. For that, the defacto complainant also replied the same as stated supra. Hence, on suspecting the activities of the said Xavier Raj, the defacto complainant has lodged the complaint before the District Crime Branch, Dindigul and the case has been registered.

3.The learned counsel for the defacto complainant submitted that he purchased centring materials worth about Rs.30 lakhs in the year 2008 from one Xavier Raj. One of the accused/Sivasubramanian in the present complaint filed a petition before this Court in Crl.O.P(MD)No.18571 of 2022 had colluded with the said Xavier Raj and on the complaint lodged by A1/Sivasubramanian, the third accused person gave a false complaint against the defacto complainant in Crime No.32 of 2009 on the file of the District Crime Branch, Dindigul. Thereafter, the defacto complainant was arrested and remanded to judicial custody on 24.09.2009 by the Accused No.3 and he also seized entire centring materials and original documents. Thereafter, conducted Katta Panchayat and about 25 persons grilled the intervenor by threatening and also forced him to sign in the blank cheque for Rs.3 lakhs drawn in favour of the first accused. After registration of FIR, the entire proceedings was 'Action Dropped' on 17.05.2011 and to that effect, the final report, which was closed for 'non prosecution' without giving any direction. In the mean while, the defacto complainant has filed a Writ Petition before this Court in W.P(MD)No.3739 of 2018 for recovery of illegally seized materials from the third accused. This Court, by order, dated 30.08.2009 issued a direction to the Superintendent of Police, Dindigul District to conduct enquiry. Therefore, the the defacto complainant has lodged a complaint and the same was originally, registered by the District Crime Branch, Dindigul for the offences under Sections 120(B), 420, 448, 379, 468, 469, 195, 196 and 201 of IPC and thereafter, it was transferred to the respondent police and re-numbered the FIR as Crime No.12 of 2020 for the same offence on 31.10.2020. Therefore, the custodial interrogation of the third accused, who is master brain for the crime, is very much required in this case.

4. On perusal of records revealed that on the earlier complaint lodged by the first accused in this case, the third accused registered the FIR in Crime No.32 of 2009. While pending investigation, there was a settlement between the defacoto complainant and the first accused. Accordingly, half of the construction materials were handed over to the first accused. In view of the settlement arrived between the parties, the Investigation Officer has filed a closure report. However, the defacto complainant herein failed to return the remaining materials and as such the first accused also filed a petition in Crl.M.P.No.6256 of 2014 before the learned Judicial Magistrate NO.1, Dindigul, to return all the construction materials and the



same was ordered on 08.05.2017. In order to execute the same, the first accused filed a direction petition before this Court in Crl.O.P(MD)No.2393 of 2020 and this Court by order dated 14.02.2022, directed the District Crime Branch, Dindigul, to comply with the order passed by the learned Judicial Magistrate No.II, Dindigul in Cr.M.P.No.6256 of 2014, dated 08.05.2017. For non compliance of the said order, the first accused also filed a petition and it is pending. Further it is seen that the crux of the issue is the purchase of construction materials from Xavier Raj. According to the petitioners herein, they have leased the construction materials to one Xavier Raj and all the materials were leased out from him to in favour of the defacto complainant. According to the defacto complainant, they purchased the construction materials from Xavier Raj. As far as the present complaint is concerned, the third accused falsely registered the FIR as against the defacto complainant and illegally obtained the construction materials. As stated as supra, as per the compromise entered between the defacto complainant and the first accused, the substantial construction materials were already handed over to the accused and for the remaining materials also, he had taken steps and the same is pending. That apart, the present complaint was originally lodged before the District Crime Branch, Dindigul and the same was registered in Crime No.30 of 2018, thereafter, it was transferred and re-registered as Crime No.12 of 2020 on the file of the respondent police. Therefore, it is pending for the past five years and hence, custodial interrogation of the petitioners does not require. Hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

5. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.IV, Trichy, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition 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 Aadhar card or Bank pass Book to ensure their identity;

b) the petitioners shall report before the respondent police daily at 10.00 a.m. without fail, for a period of two weeks and thereafter as and when required for interrogation;

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;



(d) the petitioners shall not abscond either 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 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]; and;

(f) if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

15/03/2023

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/04/2023

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

VSD

TO

1. THE JUDICIAL MAGISTRATE NO.IV, TRICHY.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY.

3. THE INSPECTOR OF POLICE,
CITY CRIME BRANCH POLICE STATION, TRICHY DISTRICT.

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

+1 CC to M/s.SARVAGAN PRABHU S, Advocate (SR-4278[I] dated 15/03/2023)

+1. CC to M/S. KANAGARAJ.C, Advocate SR.No.4363

+2 cc to M/S.VIVEK BHARATHI.M, Advocate SR No.4283

+1 CC to M/S.KARUPPASAMY.M, Advocate SR No.4357

ORDER

IN

CRL OP (MD) .Nos.18569, 18571, 21280 &
22642 of 2022

Date :15/03/2023