



CRL OP(MD). No.18070 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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S.Venkatesh Babu @ Immanuvel,

... Petitioner/ Accused No.1

Vs

1.The State rep.by,
The Sub Inspector of Police,
District Crime Branch,
Theni District.
Crime No.40/2023..

... Respondent/ Complainant

2.Jasper New Prabhu

...Petitioner/Intervener

For Petitioner : M/s.Thalaimutharasu.G,
Advocate.

For Respondent : Mr.R.Sureshkumar,
Government Advocate (Crl.Side)

For Intervenor : Mr.D.Venkatesh, Advocate

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



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WIPRAYER:-

For Anticipatory Bail in Crime No.40/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 IPC in Crime No.40 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and the defacto complainant and one Mr.Hand and Mrs.Andreyas are thick friends and they have studied at Sweden country and they have decided to start a business in India. Accordingly, the petitioner preferred a business proposal for a sum of Rs.15 crores to start an Algae manufacturing company, as the petitioner is being partner of Shibin Nutraceutical Private Limited Company manufacturing Algae and has knowledge of the business. Further, the petitioner requested his friends to invest the above said amount in the above said company as sharers and informed them that they can get the amount as returns within a period of two years. Accordingly, the friends of the Sweden country credited a sum of Rs.13.59 crores in the account of the said company. Thereafter, the friends started ALG India Enterprises Private Limited, wherein, the defacto



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complainant is having 99.99/- shares. While so, the petitioner has purchased the land to an extent of 8 acres for a sum of Rs.9 crores from one Palvannan and purchased machineries for a sum of Rs.35 laksh and he has manufactured 500 kg of Algae. Thereafter, the petitioner has utilized the company's amount for his personal uses and he refused to hand over the documents of the company and disclose password of the company to pay GST and accordingly, he has acted with an intention of cheating and misappropriation of the company's fund. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner has purchased 9 acres land and machineries only for the ALG India Enterprises Private Limited and he has not utilized any amount for his personal use. Hence, he prays for anticipatory bail to the petitioner.

4.The learned Government Advocate (criminal side) appearing for the respondent police would submit that the petitioner has used the company's amount for personal usage. Hence, he strongly opposed to grant anticipatory bail to the petitioner.



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5. The learned counsel for the intervenor/defacto complainant would submit that the petitioner has utilized the company's amount for his personal uses and he has acted with an intention of cheating and misappropriation of the company's fund. Hence, he strongly objected to grant anticipatory bail.

6. Heard both sides and perused the materials available on the record.

7. Perusal of the First Information Report, it is noticed that there are business transactions between the petitioner and the defacto complainant. Further, it is seen that the land to an extent of 8 acres and machineries have been purchased for the ALG India Enterprises Private Limited. Hence, it is revealed that there are purely business transactions between the petitioner and the defacto complainant. Therefore, considering the facts and circumstances of the case and taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)4 SCC 260 and taking into consideration the origin of crime, it is seen that the alleged offence against the petitioner is not a case of heinous crime.



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8. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner. 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 No.I, Theni 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 trial Court on summons.

[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



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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 FIR can be registered under Section 229A IPC.

sd/-
03/11/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SKN

TO

1.THE JUDICIAL MAGISTRATE NO.I THENI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.

3.THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI DISTRICT.

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



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WEB CLERK +1 cc to MR.D.VENKATESH, Advocate SR-50136(F)

+1 cc to MR.G.THALAIMUTHARASU, Advocate SR-15986

ORDER
IN
CRL OP(MD) No.18070 of 2023
Date :03/11/2023

RK/VR (06/11/2023) 7P / 7C

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