



CRL OP(MD). No.20047 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Manoranjitham Sangaradevar
2. P.Sheeba
3. Geeta
4. S.Gopalakrishnan Sangaradevar
5. S.Veluchamy Sangaradevar

... Petitioners/ A3 to A7

Vs.

- 1.The Inspector of Police,
Economic Offence Wing,
Madurai.
in Crime No.6/2023.

... Respondent/ Complainant

- 2.Banumathi

...Intervener/ Petitioner/
Defacto Complainant
in CRL MP(MD)No.16522/2023

For Petitioners : Mr.Niranjan S. Kumar
Advocate

For Respondent : Mr.R.Sureshkumar,
Additional Public Prosecutor



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For Intervenor : Mr.R.Karunanithi, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.6/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 120(B) of IPC and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997 in Crime No.6 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the Late.Dr.Poornachandran/A2 had received a sum of Rs.14 lakhs from the defacto complainant and others by giving assurance that they are constructing a hospital by name, M/s Santhi Multi Speciality Hospital Private Limited and those people who deposited will be given 36% returns per year and free medical treatment to the visitors and 50% discount in the treatment for those persons referred by the investors. Thereafter, the said



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Late.Dr.Poornachandran passed away. His legal heirs/A3 to A7 have not proceeded with the construction and they informed that the property would be sold and settled. However, they have not settled the amount. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the case of defacto complainant is that she had lent loan to Late Dr.Poornachandran/A2, however, the said doctor died without repaying the money. M/s Santhi Multi Speciality Hospital Private Limited is a Company registered under the Companies Act. During 2015, the said Doctor Poornachandran, with the help of bank loan from South Indian Bank, had put up a hospital at Aruppukottai. Thereafter, due to his expertise in the medical profession, he had gained good name and thereby, earned goodwill in the locality. Thereafter, the doctor had decided to build a multi speciality hospital. Therefore, M/s Santhi Multi Speciality Hospital Private Limited, a company registered under the Companies Act was established. Subsequently, the said doctor passed away on 29.06.2019. After the death, many individuals approached the members of the family and informed that they have given money to the doctor as loan and the doctor has passed away without repaying the amount. The petitioners herein could not confirm any of the statements of the individuals as neither there was any proof nor any bank statements/account books. Therefore, the



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petitioners through one Mr.Govindan/Arbitrator, have issued paper advertisement notifying the death of the doctor and called for claim petitions, if any, to be submitted with proof of payments. Few individuals had submitted their claim petitions, one among the claimants is the defacto complainant. In all the claim petitions, it had been stated by the claimants themselves that the amount given to the doctor is only loan. Subsequently, the defacto complainant changing the version of the complaint and with a mala fide intention to bring a normal money dispute into a case attracting TNPID Act, had converted the loan into a deposit and had made a complaint to the respondent police. Further, the respondent police on enquiry had closed the complaint as the transaction alleged by the defacto complainant is loan/money transaction and not a deposit as defined under section 2(2) of TNPID Act and therefore, had closed the complaint. Thereafter, the defacto complainant filed a writ petition in WP(MD)No.20443 of 2023 before this Court seeking for a Mandamus to direct the respondent police herein to take action based on the representation dated 05.07.2023 and 07.08.2023 within the time stipulated by this Court. Thereafter, the First Information Report has been registered. On 23.08.2023, this Court had disposed of the writ petition by recording that action had already been initiated and summons has been issued for enquiry, had closed the writ petition. He would further submit that the the petitioners are the innocent persons and they have not committed any



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offence as alleged by the prosecution. Hence, he prays for anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that the amount involved is Rs.4,50,90,000/-, which is a huge amount and cannot be treated lightly. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

5. The learned counsels for the intervenors submitted that the petitioners had collected huge sum from several persons and had issued share certificates with false promise that they will be given free treatment in the hospital and 50% discount in treatment to those persons referred by the depositors/investors. The accused persons have jointly involved in the present cheating and therefore, all the petitioners must be investigated and therefore, custodial interrogation is necessary. Further, the M/s Santhi Multi Speciality Hospital Private Limited owns a property of high value. Now, all the petitioners have jointly sold the property for Rs.10,10,00,000/- by a registered documents. Now, without settling the intervenors, the petitioners are trying to escape. Hence, they strongly opposed to grant anticipatory bail to the petitioners.



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

7. A perusal of the records, would show that the defacto complainant and others have given claim petitions, wherein, they have specifically mentioned that they have given loan to Late.Dr.Poornachandran/ A2 and that they have not any iota of proof of any transactions with the M/s Santhi Multi Speciality Private Limited Company and therefore, this Court is of the view that it is only a civil transaction. Further, it is seen that several civil suits for recovery of money have been filed in various Courts by few individual persons against the petitioners as legal representatives of the Late.Dr.Poornachandran/ A2 for recovery of money. Though the defacto complainant and others have lodged a complaint under TNPID Act, it is seen from the records that all the transactions are civil transactions/loan and it does not come under the definition of "deposit" as defined under section 2(2) of TNPID and hence, TNPID Act is not attracted.

8. Therefore, considering the facts and circumstances of the case and also 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 Kamlendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4



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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 petitioners is not a case of heinous crime. Further, the petitioners are having permanent resident at Virudhunagar District. Hence, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 are taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not to be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

9. In view of the above, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, 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 on which the order copy made ready, before the learned Special Court under TNPID Act, Madurai on condition that the petitioners shall execute a own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Judge concerned, failing which, the petition for anticipatory bail shall stand dismissed and



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on further condition that :

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[a] the petitioners shall affix their photographs and Left Thumb Impression in the surety bond and the Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

[b] the petitioners shall report before the trial Court on summons.

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

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

[e] On breach of any of the aforesaid conditions, the learned Judge/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 Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560].



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[f] If the accused thereafter absconds, a fresh FIR can be registered under
Section 229A IPC.

sd/-
22/11/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

skn

TO

1.THE JUDGE, SPECIAL COURT UNDER TNPID ACT, MADURAI

2. THE INSPECTOR OF POLICE,
ECONOMIC OFFENCE WING, MADURAI.

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

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate (SR-16711[I] dated 22/11/2023)

ORDER
IN
CRL OP(MD) No.20047 of 2023
Date :22/11/2023

RK/DD (18/12/2023) 9P / 5C
Madurai Bench of Madras High Court is issuing certified copies in this format from
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