



CRL OP(MD) No.10244 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29.07.2024

PRESENT

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD) No.10244 of 2024

R.Senthuran

... Petitioner/Petitioner/ Accused 5

Vs

The State through the Inspector of Police,
Q-Branch CID,
Sivagangai,
Sivagangai District.
[Crime No.1 of 2024]

... Respondent/Respondent/ Complainant

For Petitioners : Mr.V.Kannan, Advocate

For Respondent : Mr.M.Sakthi Kumar,

Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :- For Anticipatory Bail in Crime No.1/2024 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the respondent police in connection with Crime No.1 of 2024, for the offence under Sections 465, 468, 471, 420, 212, 109 and 120(b) of IPC and Sections 14(A), 14(B) and 14(C) of the Foreigners Act, 1946 has filed this petition seeking anticipatory bail.



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2.The case of the prosecution is the petitioner has aided A1 and A2 in entering into India by way of illegal ferry and also in getting Indian passports. A1 and A2 are Sri Lankan nationals and they are also accused in Sri Lanka.

3.This is the second application filed seeking anticipatory bail. The earlier application filed by this petitioner in Crl OP(MD)No.7239 of 2024 was dismissed by this Court vide order dated 24.06.2024.

4.The petitioner has moved this petition on 08.07.2024 seeking anticipatory bail that in the earlier application, the arguments advanced on behalf of the petitioner was not dealt with properly. Since the petitioner counsel has expressed that his arguments were not considered while deciding the earlier application, this Court has suggested the petitioner counsel to file his written arguments. The learned Counsel has also filed the written arguments on 15.07.2024, wherein the following grounds have been raised:

i.The petitioner is a refugee from Sri Lanka, he came to India on 11.04.2011 and was residing in Tamil Nadu. The petitioner had been detained at Special Camp for refugee at Chengalpattu in the year 2011. The petitioner along with others had participated in the peaceful protest against the respondent police and defacto complainant. Subsequently cases have been registered against the petitioner in crime Nos.1929 and 2123 of 2012 by the Poovirunthavalli Police Station and in Crime



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No.2656 of 2012 by the Puzhal Police Station.

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ii.While so, due to the false complaints, on 03.07.2013 the State Government has passed an order of deportation for sending the petitioner to Sri Lanka. Challenging the same the petitioner has filed WP.No.23879 of 2013 and he has also filed a writ petition in WP.No.23583 of 2013 for forbearing the authorities from deporting the petitioner to Sri Lanka, wherein an order of status quo was passed and subsequently both the writ petitions were disposed of by order dated 11.09.2013 to consider the grievance of the petitioner and to pass orders afresh after having the petitioner's representation and till such time the deportation order was kept in abeyance.

iii.While so the petitioner's wife filed HCP.No.1004 of 2014, wherein the authorities were directed to pass orders based on the petitioner's representation as directed in the writ petitions, enabling the petitioner to be in the open camp by imposing stringent conditions.

iv.There are 58,1492 Sri Lankan refugees in Tamil Nadu and they are staying in 108 open camps and 13,420 Sri Lankan Refugees are residing out of the camps. Around 90% of them have obtained Aadhar cards. They have involved in several businesses all over Tamil Nadu. Presently the Indian Government is not accepting any Sri Lankan refugee as a citizen of this country. Most of the refugees are interested in going to other countries. However they are being prevented by police and



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government.

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v. The Hon'ble Supreme Court and the High Court have observed in many cases that the Q- Branch Police have no work. Since no offence is committed by the refugee, no case is registered, this is the reason why the Courts have observed so. Therefore, the Q- Branch police are deliberately registering the cases against the refugees, as if they involve in the offences.

vi. The petitioner is the only refugee implicated in the present criminal case by the respondent. The defacto complainant in this case is the person who had registered the case against the petitioner before 14 years. The petitioner has been cornered by the de facto complainant since he is a refugee and as such this case been foisted against him.

vii. Except the confession statement of the co-accused, there is no other material as against this petitioner, to connect him with the alleged offence.

viii. The petitioner is having a wife and two daughters. He is doing poultry business. He has recently started seafood business. Rameshwaram is the biggest market for seafood products. Therefore he often visits Rameshwaram. One such a visit to Rameshwaram has been projected, as if it was to receive the 1st and 2nd second accused. Even according to the police the 1st accused arrived at Chennai airport with a fake name. Therefore it is clear that the version of the respondent police is not correct.



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ix. The respondent Police claim that there is a case pending against the petitioner in Ernakulam Police Station in Crime No.1846 of 2011 for the offence under Sections 14(a)(c) of the Foreigners Act and Section 420 IPC for illegal ferry of Sri Lankan Tamil from Kerala to Australia. But the case has been closed, the petitioner was not convicted and his name has been removed from the case.

x. The petitioner was permitted to reside at Chennai at his own cost as confirmed by the order of the Special Tahsildar, Vandavasi Taluk by his proceedings in Na.Ka.No.A2/128/2014 dated 01.02.2021 and 16.12.2014. Accordingly the petitioner has been residing at Perungalathur with the Inspector of Police along with his family. He is doing poultry business from the year 2017. As on date no other case is pending as against the petitioner.

xi. The present case in Crime No.1 of 2024 was registered on 04.06.2024 against the petitioner and he has filed criminal original petition seeking anticipatory bail application, wherein this Court granted interim anticipatory bail to the petitioner to appear before the respondent police on 06.06.2024 for enquiry. Accordingly the petitioner has appeared before the respondent police for enquiry and co-operated. However it has been falsely reported before this Court by the respondent police.

xii. The police have produced documents in relation to the purchase of a house plot by the petitioner and his family by referring to transactions. The said



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transactions are payments of rent and monthly installments, which were made pledging his wife's jewels. He has entered into an agreement for purchase of property to an extent of Rs.63 lakh, out of which Rs.58 lakh would be paid by availing loan by him. The respondent police have not brought this to the notice of this Court.

xiii.The allegation as against the petitioner is that he has used 109 Indian SIM cards and 5 Sri Lankan SIM cards. There is a prohibition on the usage of SIM cards, one person can own 9 SIM cards in India. The petitioner does not have an Aadhar card to obtain this number of SIM cards.

xiv.He has also been alleged that he has used Zangi App. However, the respondent police has not produced any material to show that the petitioner by using the said App has committed any offence or indulged in any illegal activities. The 4th accused has been granted bail by this Court and therefore, this criminal original petition be allowed.

5.Since the petitioner has filed his written arguments, this Court has provided an opportunity to the respondent / the Inspector of Police, Q-Branch CID, Sivagangai District to file their response. Accordingly, the respondent has filed the counter affidavit on 19.07.2024 as follows:

a.One Karuppaiah @ Siva / A3 in this case in his confession informed that A2 -

Thushan Pradeep Jayasekara was illegally ferried into Tamil Nadu. A2 - Thushan



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Pradeep Jayasekaran picked by the petitioner from Rameshwaram seashore in a car bearing registration number TN 01 BD 3056 owned by the petitioner. On enquiry the mobile number 9444 606550 tagged to this vehicle's FASTag was used by the petitioner during the commission of offence.

b.The said Karuppaiah @ Siva / A3 confessed that the petitioner usually communicates with others through Zangi App. The investigation also revealed that 109 SIM cards and 5 Sri Lankan SIM cards were used by the petitioner in his android phone. However during the enquiry, the petitioner did not produce his android phone and claimed to have lost the mobile in Kasi, thereby preventing the investigation authorities from analysing the phone calls through forensic and thereby intentionally destroyed the evidence against him. During the interrogation, the investigating officer questioned about the ownership of mobile number 8122 013079 and the petitioner replied that ownership is not known to him. But the above mobile number was used by the petitioner in his own android phone. Further as directed by this Court the petitioner has appeared before the investigating officer for enquiry and the enquiry revealed that the petitioner's annual income is around Rs.7 lakh. During the month of February alone he has transferred a sum of Rs.5,00,000/- to one Deepan Raj and entered into an agreement to purchase a plot for Rs.65,00,000/-. Therefore, the said transaction of the petitioner in his account is uncertain and it is highly



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suspicious. The investigating officer has collected receipts from H2 Residency, Pattinamkathan, Ramanathapuram District to substantiate the petitioner's visit to Rameshwaram, which is also corroborated by the confession statement of A3 Karupaaiah @ Siva.

c.The petitioner assisted in arranging for logistics for A2 Thushan Pradeesp Jayasekara, who is an accused in a mass shooting in Bellaite in Sri Lanka, against whom a red corner notice is issued. The petitioner knowing all these details well, helped him and this action is an indicative of subverting the internal security of the country and also the petitioner knowing that A2 is having underworld network of Sri Lanka on his own volition helped him to acquire all the Indian documents thereby causing a threaten to the integrity, sovereignty and internal security of our country.

d.The case registered in Ernakulam PS in Crime No.1846 of 2011 under Section 14 (a)(c) of Foreigners Act and 420 r/w 34 IPC is still pending before the Chief Judicial Magistrate Court, Ernakulam. Since the petitioner has not appeared for the hearing and the petitioner has produced false sureties, the learned Chief Judicial Magistrate has ordered for an action under Sections 82 and 83 of the Criminal Procedure Code.

e.The procedure for refugees to travel abroad is that they have to apply through the offices of UNHCR and as they are refugees of Sri Lanka, a passport from the Sri



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Lankan High Commission has to be obtained by the refugee, who wishes to travel abroad, which is facilitated by the State government. The refugee then mandatorily travels back to Sri Lanka and then proceeds onwards to the country of his choice. But in this case, the accused had facilitated this entire process to the accused A1 Samitha Eranda and A2 Thushan Pradeep Jayasekara by getting them Indian Aadhar cards and to get Indian passports, as they were wanted in Sri Lanka for cases against them. The petitioner herein / A5 obtained Aadhar card bearing number 942915680901 with the address of Euro Phobia DABC, Door No.5, First Floor, Polacherry, Chennai-1. The earlier petition for anticipatory bail filed by the petitioner on 15.05.2024 in Crl OP(MD)No.7239 of 2024, was dismissed on 24.06.2024 and within fifteen days, this second anticipatory bail application is filed.

6.This Court has considered the rival submissions and perused the materials placed on record.

7.The petitioner is A5. He is said to have been arrested for arranging illegal ferry for A2 Thushan Pradeep Jayasekara, who is an accused in Sri Lanka in a mass shooting incident at Belliate. The investigating agency claimed that a red corner notice was issued as against A2 by the Sri Lankan government in RCN.No.4897/5/2024. A1 in this case is also one of the accused in Sri Lanka. Both these accused have entered into Tamil Nadu via Ramaeshwaram by illegal ferry and



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they were received by this petitioner / A5 at Rameshwaram seashore. He has also taken the A1 and A2 through a car bearing registration No.TN 01 BD 3056 owned by this petitioner. The respondent police arrested A1 to A3 and recorded their confession statements. Apart from the confession statements, they have also recovered Sri Lankan passports from A1 and A2. Though A1 and A2 are having passports, they entered into India by illegal ferry. The investigating agency has collected the details of this car bearing registration number TN 01 BD 30561 passing through a check post and the usage of the petitioner's mobile 94446 06550 for the payment of the FASTag. The petitioner is said to have arranged the car and paid the cost for the above said Sri Lankan national with the help of A3 and they have attempted to send them to Canada.

8.This Court considering the rival submissions made in the earlier application filed for anticipatory bail has directed the petitioner to appear before the investigating officer and to co-operate for the enquiry. The investigating officer claims that the petitioner has not co-operated for the enquiry, given evasive reply and has not produced his mobile phone. The investigating agency claims that more than 111 SIM cards were used in the petitioner's mobile. The investigating agency has also collected materials that the petitioner's annual income is around Rs.7 lakh and he has transacted a sum of Rs.5,00,000/- to one Deepanraj in the month of February and also



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entered into an agreement of purchasing a plot worth about Rs.65,00,000/-. The investigating agency also claims that the petitioner has sent a Sri Lankan refugee to Australia via Ernakulam, for which a case was registered in Crime No.1846 of 2011 on the file of the Ernakulam Police Station under Sections 14(a)(c) of the Foreigners Act and 420 r/w 34 IPC and it is pending as of now. The petitioner claims that he has been acquitted of the charges. However the investigating officer has confirmed in his counter affidavit that he is evading the proceedings before the Court at Enrnakulam. Further the Court has also contemplated action under Sections 82 and 83 CrPC as against the petitioner. Yet another case is also registered as against this petitioner for having produced the false sureties. Considering the serious allegations made against this petitioner that he has harboured an accused who was issued with a red corner notice in Sri Lanka and has also indulged in similar offence, which is pending before the Court at Ernakulam, this Court has dismissed the earlier anticipatory bail application, after discussing in detail, after providing sufficient opportunity to the petitioner and also by providing interim anticipatory bail enabling the petitioner to appear before the investigating officer.

9.The petitioner has made an averment that this Court has not provided sufficient opportunity to him, has filed this second application seeking anticipatory bail petition. This Court in the earlier anticipatory bail petition, considering the



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rival submissions made granted interim protection to the petitioner enabling him to appear before the respondent police for enquiry, however he has not co-operated with the investigating agency. Considering this conduct, the nature of allegation and the stage of the investigation, the earlier application was dismissed on 24.06.2024 and there is no change in circumstances. The petitioner has not made out any change in circumstances for considering this anticipatory bail application, accordingly, this criminal original petition is dismissed.

sd/-
29/07/2024

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/08/2024
Sub-Assistant Registrar
(CS.I, II, III, IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK
TO
1 THE INSPECTOR OF POLICE,
Q-BRANCH CID,
SIVAGANGAI,
SIVAGANGAI DISTRICT.

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

+1 CC to M/s.V.KANNAN, Advocate (SR-8885[I] dated 29/07/2024)



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ORDER
IN
CRL OP(MD) No.10244 of 2024
Date :29/07/2024

SA/VR/09.08.2024/13P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.