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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 29.07.2025

Pronounced on : 06.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).No.8630 of 2025
and
Crl.M.P(MD)No.9196 of 2025

1.Antonyraj Premkumar
S/o.Senthur Pandian

2.Samuel Saravanan
S/o.Arumugam

3.Sivakumar
S/o.Sreedharakamal

4.Antonysamy Yovan
S/o.Yovan ...Petitioners/Accused Nos.1 to 4

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
District Crime Branch,
Dindigul.
(Crime No.13 of 2025) ...Respondent/Complainant

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PRAYER: Criminal Original Petition filed under Section 482 of BNSS 2023, to enlarge the petitioners/Accused on bail in the event of their arrest in Crime No.13 of 2025 pending investigation on the file of the respondent police.

For Petitioners : Mr.A.R.Hariprasaadh

For Respondent : Mr.M.Karunanithi
Government Advocate (Crl.side)

For Intervenor : Mr.Isaac Mohanlal
Senior Counsel for Mr.K.R.Laxman

ORDER

The petitioners seek anticipatory bail upon the apprehension of arrest at the hands of the respondent police for the alleged offences U/s.120(B), 409 and 420 of IPC., in Crime No.13 of 2025 on the file of the respondent police.

2. The learned counsel for the petitioners submitted that the accused are running a company under the name and style of "Solar Care India Private Limited," and the de-facto complainant is running a company under the name and style of "Green Sparrow Solar Nest Private Limited." The de-facto complainant's company was established in the year 2021, whereas the accused's company was established in

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the year 2013. Both companies, which are engaged in the same line of business, entered into a Memorandum of Understanding on 06.01.2024 to jointly carry on business, capitalize on each other's strengths, foster synergies, and enhance overall efficiency and profitability.

3. He further submitted that as per the understanding, the role of the de-facto complainant's company was to procure the lands, while the role of the accused's company was to bring in the clients. Both companies were to mutually decide the value of a single megawatt, and based on the agreed value, share the profit accordingly. A project commenced in 2024, and the total capacity of the project was 50 megawatts, and for 25 megawatts, the accused's company brought the clients. Since the de-facto complainant's company is a new born company and lacked the credibility to generate invoices independently, the accused's company issued purchase orders and the de-facto complainant's company was required to raise the invoices. Accordingly, the accused's company issued a purchase order and paid an advance of Rs.11,64,00,000/- to the de-facto complainant's company. However, the de-facto complainant's company failed to raise the corresponding invoice. Subsequently, a GST liability of about Rs.2,00,00,000/- became due. Based on this, the present FIR has been registered.

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4. The learned counsel for the petitioners filed an additional typed set of documents showing an e-mail dated 28.02.2025, sent by the de-facto complainant. Until that date, there was no dispute between the two companies. The present FIR was registered only in April 2025. He further submitted that the de-facto complainant's company, being a newly established one, sought collaboration with the accused's company. As the de-facto complainant was liable to pay GST for his business activities, he filed the present complaint in an attempt to escape from such liability.

5. The learned counsel for the petitioners further submitted that the intention of the de-facto complainant is merely to recover money. Therefore, he has invoked criminal law to give a civil dispute the colour of a criminal case with the objective of recovering money from the accused's company. The learned counsel for the petitioners also relied upon the judgment of the Hon'ble Apex Court in Crl.A @ SLP (Crl.)No.14423 of 2023 (Jay Shri & Anr. vs. State of Rajasthan) and the judgment of this Court in Crl.O.P.(MD) No.420 of 2022 (R.Chellamuthu and 3 Ors. vs. The Inspector of Police, District Crime Branch, Dindigul and Anr.)

6. On the other hand, the learned Government Advocate (Criminal Side)

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submitted that there are totally four accused persons in this case. The de-facto complainant is the Managing Director of Green Sparrow Solar Nest Private Limited. He engaged the accused's company for the supply of solar energy. The accused, acting as a working partner, received substantial funds from the de-facto complainant and misappropriated amounts exceeding Rs.2,14,19,408/-. Furthermore, the accused allegedly created bogus invoices and collected large sums from purchasers. The 1st accused is the Managing Director of the company, the 2nd accused is an Accountant, the 3rd accused is an Engineer, and the 4th accused is a Supervisor. It is further alleged that the accused received crores of rupees from investors and failed to maintain proper accounts.

7. The learned counsel for the intervenor submitted that the accused's company originally approached the de-facto complainant's company, and with the intent to defraud, induced the de-facto complainant to invest Rs.50,00,000/- initially and subsequently several crores. The accused's company caused the de-facto complainant's company to purchase solar panels, transformers, electric poles, cables, etc. The understanding was that the de-facto complainant's company would procure land for the solar infrastructure, while the accused would bring clients to purchase the projects. Although agreements were entered into on 06.01.2024 with the intent

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to resolve issues, the accused did not honour the terms. Subsequently, it was discovered that the accused had received an advance of Rs.1,90,00,000/- from nine companies for the sale of the solar project, without informing the de-facto complainant.

8. The learned counsel for the intervenor further submitted that further investigation revealed that the accused, in violation of the agreement terms and with fraudulent intent, declared that Rs.49.92 crores were collected from customers towards the sale of 26-megawatt solar project, out of which only Rs.14.14 crores were transferred to the de-facto complainant, and Rs.18.76 crores were allegedly spent by the accused's company. The de-facto complainant also claims that the accused received GST returns totalling Rs.72.72 crores from various clients but disclosed only Rs.49.92 crores as sales proceeds, thereby swindling Rs.22.80 crores. To substantiate these claims, the learned senior counsel for the intervenor filed an additional typed set, including the GST return statement obtained by the Investigating Officer. He also relied upon the judgments of the Hon'ble Apex Court reported in (1999) 3 SCC 259 (Rajesh Bajaj vs. State NCT of Delhi and Ors.) and (2001) 8 SCC 645 (M.Krishnan vs. Vijay Singh and Anr.). He, further submitted that the investigation is still at a preliminary stage, and if the accused are granted

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anticipatory bail, it would hamper the investigation, lead to diversion of funds, and result in tampering of genuine records.

9. Heard and perused the records. It is seen from the records that the petitioners are running Solar Care India Pvt Ltd from 2013 onwards, the defacto complainant is running Green Sparrow Solar Nest Pvt Limited from 2021. It is alleged that the petitioners approached the defacto complaint and that without investing any money, the petitioners, with intention to cheat, induced the defacto complaint to invest in Solar project and that the petitioner has collected crores of rupees from various customers without the knowledge of the defacto complainant. It is further alleged that the petitioners collected Rs.72.72 crores from various customers and only declared Rs.49.92 crores for sale proceeds thereby swindles Rs.22.80 crores. It is further alleged that the petitioners showed Rs.77 lakhs towards stock, but they have not given particulars of stock. It is the specific allegation of the defacto complainant that the defacto complainant is new in the Solar field and that since the petitioners are running the solar company from 2013, by believing their words, he invested huge money, but the petitioners declared amount by creating bogus invoices thereby, the petitioners swindles huge amount. The main argument of the petitioners is that the petitioners and the defacto complainant are partners and

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if any one of the partners uses assets for his own purpose, he is accountable in a civil nature, it would not attract misappropriation or cheating and relies on citations cited above.

10. On perusal of citations relied on by the intervener, the Hon'ble Supreme Court held in (1999) 3 Supreme Court Cases 259 as follows:

> "10.It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheatings were committed in the course of commercial and also money transactions. One of the illustrations set out under Section 415 of the Indian Penal Code [Illustrations f] is worthy of notice now:
>
> > "(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats."
>
> 11.The crux of the postulate is the intention of the person who induces the victim of his representation and not the nature of the transaction which would become decisive in discerning whether there was commission of offence or not. The complainant has stated in the body of the complaint that he was induced to believe that respondent would honour payment on receipt of invoices, and that the complainant

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realised later that the intentions of the respondent were not clear. He also mentioned that respondent after receiving the goods have sold them to others and still he did not pay the money. Such averments would prima facie make out a case for investigation by the authorities.

12. The High Court seems to have adopted a strictly hyper-technical approach and sieved the complaint through a cullendar of finest gauzes for testing the ingredients under Section 415 , IPC. Such an endeavour may be justified during trial, but certainly not during the stage of investigation. At any rate, it is too premature a stage for the High Court to step in and stall the investigation by declaring that it is a commercial transaction simplicitor wherein no semblance of criminal offence is involved.

and in (2001) 8 Supreme Court Cases 645 the Hon'ble Supreme Court held as follows:-

"4. ......The High Court appears to have been impressed by the fact that as the nature of the dispute was primarily of a civil nature, the appellant was not justified in resorting to the criminal proceedings.

5. Accepting such a general proposition would be against the provisions of law inasmuch as in all cases of cheating and fraud, in the whole transaction, there is generally some

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element of civil nature. However, in this case, the allegations were regarding the forging of the documents and acquiring gains on the basis of such forged documents. The proceedings could not be quashed only because the respondents had filed a civil suit with respect to the aforesaid documents. In a criminal court the allegations made in the complaint have to be established independently, notwithstanding the adjudication by a civil court. Had the complainant failed to prove the allegations made by him in the complaint, the respondents were entitled to discharge or acquittal but not otherwise. If mere pendency of a suit is made a ground for quashing the criminal proceedings, the unscrupulous litigants, apprehending criminal action against them, would be encouraged to frustrate the course of justice and law by filing suits with respect to the documents intended to be used against them after the initiation of criminal proceedings or in anticipation of such proceedings. Such a course cannot be the mandate of law. Civil proceedings, as distinguished from the criminal action, have to be adjudicated and concluded by adopting separate yardsticks. The onus of proving the allegations beyond reasonable doubt, in criminal case, is not applicable in the civil proceedings which can be decided merely on the basis of the probabilities with respect to the acts complained of. The High Court was not, in any way, justified to observe :

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"In my view, unless and until the civil court decides the question whether the document are genuine or forged, no criminal action can be initiated against the petitioners and in view of the same, the present criminal proceedings and taking cognizance and issue of process are clearly erroneous."

6. Where factual foundations for the offence have been laid down in the complaint, the High Court should not hasten to quash criminal proceedings merely on the premise that one or two ingredients have not been stated with the details or that the facts narrated reveal the existence of commercial or money transaction between the parties."

11. From the above citations, it is very clear that many cheating were committed in the course of commercial and money transactions and that civil proceedings, as distinguished from criminal action, have to be adjudicated and concluded by adopting separate yardsticks. The onus of proving the allegations beyond reasonable doubt, in criminal cases, is not applicable in civil proceedings, which can be decided merely on the basis of the probabilities with respect to the acts complained of.

12. In the case on hand, though the petitioners state that the transaction between the petitioners and the defacto complainant is a commercial transaction, as held by the Hon'ble Supreme Court that in many cases cheating is being committed

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through commercial transactions, in order to escape from criminal liability. On perusal of FIR and according to the intervening petitioner, it is alleged that without investing any capital, the petitioners, from the very beginning with the intention to cheat the defacto complainant, induced to invest crores of money and also by way of creating bogus invoices, the petitioners swindled crores of money. The Investigating Agency has also collected prima facie materials that the petitioners received more than Rs.72 crores from various customers without the knowledge of the defacto complainant and showed only Rs.49 crores. The citations relied on by the intervenor are applicable to the prima facie facts of this case, whereas the citations relied on by the petitioners are not applicable. Therefore, the case at hand needs a thorough criminal investigation.

13. The investigation is now at the preliminary stage and the interrogation of petitioners is very much necessary. Moreover, at the instance of the petitioners, the matter was referred to mediation, but it was not settled. So, the apprehension of the investigating agency and the defacto complainant that in case the petitioners are granted anticipatory bail, they would tamper with the evidence could not be brushed aside as there is no substance in their submission. Therefore, considering the above facts and circumstances, this court is not inclined to grant anticipatory bail

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to the petitioners at this stage.

14. In the result, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

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

VSD
To
1.The Inspector of Police,
District Crime Branch,
Dindigul.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.B.ANANDAN, Advocate (SR-8471[I] dated 06/08/2025)

+1 CC to M/s.J.C.RATHNAVEL PANDIAN, Advocate (SR-5556[I] dated 15/05/2025)

ORDER
IN
CRL OP(MD) No.8630 of 2025
Date :06/08/2025

PS/SAR.20.08.2025 13P/6C

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