

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 04/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
CRL OP(MD). No.21676 of 2022

WEB COPY

Sasikanth

... Petitioner/Sole Accused

Vs.

The State of Tamil Nadu
Represented by the Inspector of Police,
Cyber Crime Department,
Dindigul District
In Crime No.49 of 2022

... Respondent/Complainant

P.Varadharajan,

...Petitioner/Defacto complainant
in CRL MP(MD).15644 of 2022
(Intervener)

For Petitioner	:	Mr.R.Balakrishnan
For Respondent	:	Mr.T.Senthil Kumar
		Additional Public Prosecutor
For Intervenor	:	Mr.R.Anandharaj

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

PRAYER :-

For Anticipatory Bail in Crime No.49 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the respondent police for the offence punishable under Section 420 IPC r/w Section 66D of the Information Technology Act, 2000 in Crime No.49 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Varadharajan is that he is an investor in Crypto currency and the accused is doing Crypto currency business in the name of Pitcoiva Crypto Currency Exchange at Salem. On the inducement made by the accused, the defacto complainant on 23.11.2022, had invested Rs.1,14,942/- USDT Crypto currency in the petitioner's wallet worth about Rs.87/- per one USDT Crypto Currency and though the defacto complainant had asked for return of amounts repeatedly, the accused did not repay the amount and they cheated the defacto complainant. Hence, the case.



3. The learned counsel for the petitioner would submit that the petitioner is working as Business Consultant in M/s.Hyperux Technologies Private Limited at Salem and the said company is a company incorporated under the Indian Companies Act and carrying out Crypto related services. The said company engaged the services of one M/s.Osiz Technologies Private Limited, Madurai for creating software technology for their company. The said M/s.Osiz Technologies had done unauthorised access to M/s.Hyperux Technologies Pvt. Ltd and they have cheated them to the tune of Rs.10 Crores in respect of which a complaint was registered by the Hyperux Technologies Pvt. Ltd., before the Salem Police Station and the case in Crime No.52 of 2022 was registered against them.

4. It is further submitted by the learned counsel for the petitioner that since M/s.Hyperux Technologies Pvt. Ltd., has frozen the account of one Thangapandi, who has sent a fund of 1,14,942 USDT (Tether), as a third party wallet and once the dispute between the said M/s.Osiz Technologies is resolved, the said Thangapandi's crypto transfer to the defacto complainant will be complied with. He would further submit that there is no cheating on the part of M/s.Hyperux Technologies Pvt. Limited. The defacto complainant after joining with the said Thangapandi has lodged a complaint with false accusations with an intention to spoil the petitioner's reputation and business.

5. The learned counsel for the petitioner would further submit that the petitioner has means and he is not a fly-by-night operator and without prejudice to their rights and contentions, to show the *bonafides*, the petitioner is ready to deposit Rs.50 lakhs before the court to the credit of crime number as cash by way of two installments and 1st installment of Rs.25 lakhs will be deposited at the time of furnishing sureties and the 2nd installment of Rs.25 lakhs will be deposited within a period of 15 days from the date of de-freezing the bank account. The petitioner is also ready to produce the original title deeds worth about Rs.50 lakhs before the court to the credit of crime number as an additional security.

6. The learned counsel for the petitioner would submit that the bank account of the company has been frozen by the respondent and therefore, a direction may be issued to the respondent to de-freeze the account so as to enable the petitioner to deposit the amount as per the direction of this Court.

7. The learned Additional Public Prosecutor would submit that the Hyperux Technologies Pvt. Ltd., Salem, has induced the defacto complainant to transfer Rs.1,14,942/- USDT Crypto currency to the value of Rs.1 Crore and the accused have thereafter cheated the defacto complainant by not returning money.



8. In reply with regard to de-freezing of the account of the petitioner, Mr.Senthil Kumar, learned Additional Public Prosecutor would submit that as and when the petitioner furnishes surety by depositing cash of Rs.25 lakhs and original title deeds of immovable properties worth Rs.50 lakhs to the credit of crime number, then the respondent police will de-freeze the bank account of the petitioner within a period of two weeks from such date and he would also submit that the petitioner may be directed to deposit additional deposit of Rs.25 lakhs after defreezing the account within a specified time.

9. Mr.R.Anandharaj, learned counsel for the internor would submit that under the guise of running business in Crypto Currency at Salem, the accused has induced the defacto complainant to deposit Rs.1,14,942/- USDT Crypto currency to the wallet of the accused and the defacto complainant has deposited the same and thereafter, the accused has cheated him by not returning the same.

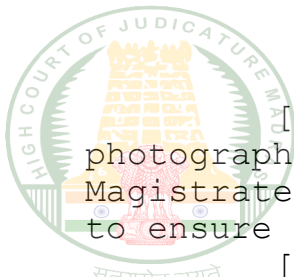
10. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

11. Taking into consideration the facts and circumstances of the case and considering the fact that the petitioner is ready to deposit Rs.50 lakhs as cash and deposit the original title deeds of immovable property worth Rs.50 lakhs before the court to the credit of crime number, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

12. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.I, Dindigul District**, 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 shall, within a period of 15 days from the date of receipt of a copy of this order, deposit Rs.25 lakhs as cash and also deposit the original title deeds of immovable property worth Rs.50 lakhs either belonging to him or friends or relatives before the court to the credit of Crime No.49 of 2022 and another sum of Rs.25 lakhs shall be deposited within a period of 15 days from the date of de-freezing of the bank account by the respondent;

[b]the petitioner shall execute an affidavit before the learned Judicial Magistrate that he will not encumber the property;



[c] 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.

[d] the petitioner shall report before the respondent Police Station everyday at 10.30 a.m for a period of four weeks and thereafter, as and when required for interrogation;

[e] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[f] the petitioner shall not abscond either during investigation or trial;

[g] on breach of any of the aforesaid conditions, the learned Magistrate/ Trial 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]**; and;

[h] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
04/01/2023

/ TRUE COPY /

/01/2023

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

CM
TO

1. The Judicial Magistrate No.I, Dindigul District
2. Do Through The Chief Judicial Magistrate, Dindigul.
3. The Inspector of Police,
Cyber Crime Department, Dindigul District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.ANANDHARAJ R, Advocate (SR-170[I] dated 05/01/2023)
+1 CC to M/s.BALAKRISHNAN R ---, Advocate (SR-324[I] dated 06/01/2023)

ORDER IN
CRL OP(MD) No.21676 of 2022
Date : 04/01/2023

TR/BUC/SAR-I(19.01.2023) 4P 7C