

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 30.11.2021
PRONOUNCED ON : 17.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P(MD)No.18236 of 2021 and CrI.M.P(MD).No.10215 of 2021
and
CrI.O.P(MD)No.18238 of 2021 and CrI.M.P(MD).No.10212 of 2021

1.K.T.Rajenthralhalaji ... Petitioner in
CrI.O.P(MD)No.18236 of 2021

2.Vijayanallathambi @ K.Nallathambi ... Petitioner in
CrI.O.P(MD)No.18238 of 2021

Vs.

State Through the Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.
(Crime No.19 of 2021). ... Respondent in
CrI.O.P(MD)No.18236 of 2021

The State,
Rep. by Inspector of Police,
District Crime Branch Police Station,
Virudhunagar District.
Crime No.19/2021. ... Respondent in
CrI.O.P(MD)No.18238 of 2021

PRAYER in CrI.O.P(MD)No.18236 of 2021: Criminal Original Petition is filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner/accused on anticipatory bail in Crime No.19 of 2021 on the file of



Respondent Police.

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PRAYER in CrI.O.P(MD)No.18238 of 2021: Criminal Original Petition is filed under Section 438 of the Code of Criminal Procedure, directing the release of the petitioners on anticipatory bail in the event of arrest by the respondent police in Crime Number 19 of 2021 on the file of the respondent police, the District Crime Branch Police Station, Virudhunagar District.

For Petitioner in

CrI.O.P(MD)No.18236 of 2021 : Mr.M.Ajmal Khan, Senior Counsel for
M/s.Ajmal Associates.

For Petitioner in

CrI.O.P(MD)No.18238 of 2021 : Mr.S.C.Herold Singh

For Respondent in
both cases

: Mr.Hasan Mohammed Jinnah,
State Public Prosecutor assisted by
Mr.E.Raj Thilak,
Additional Public Prosecutor

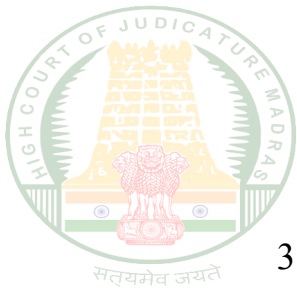
For Intervenor in
both cases

: Mr.I.Velpradeep

COMMON ORDER

Criminal Original Petitions are filed to enlarge the petitioners/A1 & A2 on anticipatory bail in Crime No.19 of 2021 on the file of the respondent Police.

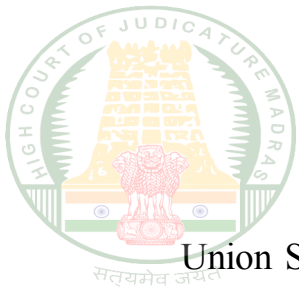
2.For the sake of convenience and clarity, the petitioners are referred as accused as per description in the FIR in Crime No.19 of 2021.



3. On 15.11.2021, the respondent Police received a complaint of the defacto complainant from the Superintendent of Police, Virudhunagar. On receipt of the same, a case in Crime No.19 of 2021 was registered, for offence under Sections 120(b), 406 and 420 IPC against the petitioners/A1 & A2 and A3.

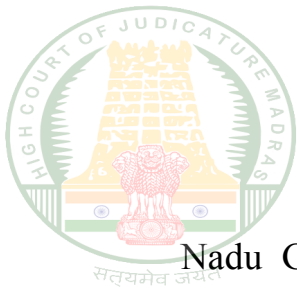
4. The case of the prosecution is as follows:-

(i) The defacto complainant/intervenor was running electronic shop at Sattur, Virudhunagar. His nephew Anand, aged about 26 years, completed B.E., and was searching for job. A3, who hails from Thayilpatty used to visit the defacto complainant's shop regularly and claimed that he is the member of AIADMK party, contested councillor election twice. Further, he claimed that he is having good contacts with A2, the then Minister of Milk and Dairy Development in Tamil Nadu cabinet. A3 informed defacto complainant that A2 was ever willing to help him. During the first week of October 2020, nephew of defacto complainant was in the defacto complainant shop, at that time, A3 came there, enquired with Anand about his studies. A3 promised that he would get him a job in Aavin, a Government undertaking through A2. During the second week of October 2020, the defacto complainant met A1,



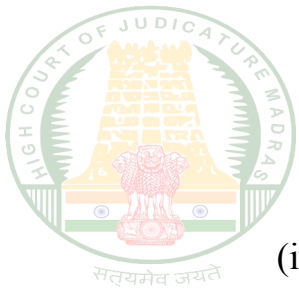
Union Secretary of AIADMK party. A1 claimed that he can speak to A2 and arrange the job viz., District Manager in Aavin for defacto complainant's nephew. A1 collected all photostat copy of educational certificates of Anand, informed that he would inform the amount needed to be paid for the job after consulting A2.

(ii)After two days, A1 called defacto complainant through his mobile number 9842188780, informed that he had made arrangements to get the District Manager Post in Aavin for Anand and informed the defacto complainant to meet A2. After two days, at about 02.00 p.m., the defacto complainant and A3 went to the house of A2 in a car bearing Registration No.TN 67 AB 8878 Maruthi Estilo. At that time, A1 and A2 were conversing. A1 informed defacto complainant that A2 demanded Rs.35,00,000/- (Rupees thirty five lakhs) for the post of District Manager in Aavin. Thereafter, the defacto complainant called A1 in his mobile numbers 8925177323 and 8883027999, requested to reduce the amount and it was reduced to Rs.25,00,000/- (Rupees twenty five lakhs). On 02.11.2020, defacto complainant handed over Rs.5,00,000/- to A1 at his house in presence of A3. On 31.12.2020, the defacto complainant pledged his wife's jewels in Tamil

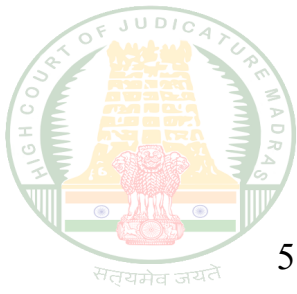


Nadu Grama Bank, Srivilliputhur for Rs.10,00,000/- and handed over the same to A1 in presence of A3 on the same day.

(iii)After few days, A1 called the defacto complainant informed that the amount is raised to Rs.37,00,000/- (Rupees thirty seven lakhs) for the post of District Manager in Aavin, since there was heavy competition. Thereafter, defacto complainant arranged Rs.5,00,000/- through his friend one Mariyappan and handed over the amount to A1 near Kazhugumalai Police Station at about 08.40 p.m. Again, A1 called defacto complainant to arrange the balance amount of Rs.5,00,000/- to get the job. On 10.02.2021, the defacto complainant arranged Rs.1,20,000/- in cash and handed over the amount to A1 near Sattur Toll Plaza and thereafter, the defacto complainant transferred Rs.3,80,000/- through bank from his account No.377505500022, ICICI Bank, Sattur Branch to the account of A1 in No.029001000024271, Indian Overseas Bank, Alangulam. After that, whenever defacto complainant called A1, he avoided him and giving one reason or other in getting employment.

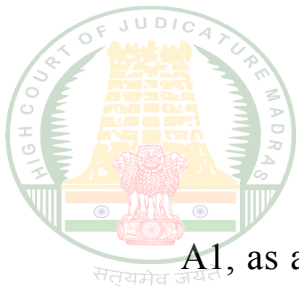


(iv) Later, the General election of the Legislative Assembly was announced. Two days before the election, the defacto complainant met the brother of A1, Ravichandran, who was the District Secretary (East), AIADMK party, Virudhunagar and informed the happenings. The brother of A1 promised the defacto complainant that the appointment order will be issued soon after completion of election. After the election, AIADMK party got defeated and thereafter, the defacto complainant was unable to meet the brother of A1. Later, he met A1 through A3 in Government Quarters at Alangulam on 26.07.2021 and requested A1 to return the amount. A1 informed that he would return the amount with interest within few days. Whenever defacto complainant called A1, he gave reason that A2 had gone to Delhi and he would repay the money once he returns. Later, informed that Income Tax raid was going on at A2's residence and connected places and as and when, the situation gets normal, the money would be collected from A2 and will be handed over. On the other hand, A1 started avoiding the repayment and finally, threatened the defacto complainant. Hence, the complaint.



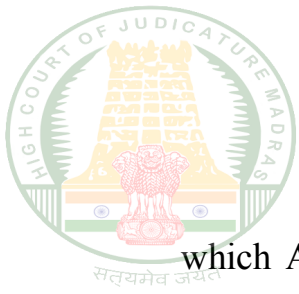
5.The learned counsel appearing for the petitioner/A1 in CrI.O.P(MD)No.18238 of 2021 submitted that a false case is foisted against A1. At no point of time, A1 promised defacto complainant in securing the District Manager Post in Aavin. A1, the Secretary of the District Legal Wing of AIADMK party and the Secretary of Students Wing was given several assignments by A2, the then Minister of Milk and Diary Development in Tamil Nadu Government. On instructions of A2, A1 carried on party work and other works. A3 approached A1 for securing the post of District Manager, Aavin to the defacto complainant's nephew. Initially, A1 refused to entertain A3 and thereafter, on the persistent request of A3 and defacto complainant, A1 agreed and took defacto complainant to the office of A2, introduced them to A2. On the instructions of A2, the defacto complainant paid money to A1 for the post of District Manager, Aavin, in turn the amount was handed over to A2.

6.The learned counsel for the petitioner/A1 further submitted that A1 lodged a complaint against A2 and others, since he was cheated to the tune of Rs.3 Crores. On the complaint of A1, a case in Crime No.20 of 2021, for offence, under Sections 120(b), 406, 420 and 506(i) IPC was registered against A2 and three others. On coming to know about the complaint given by



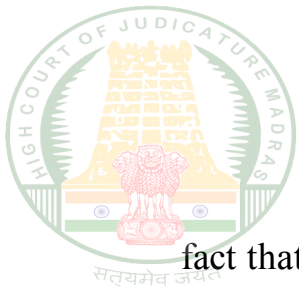
A1, as a counterblast, the present FIR in Crime No.19 of 2021 was registered against him. A1, a prominent person, is residing with his family and got deep social roots and he will not evade justice and shall cooperate with the investigation. In fact, A1 is a victim, who is now attempted to be prosecuted. Hence, he prayed for grant of anticipatory bail to A1.

7.The learned Senior Counsel appearing for the petitioner/A2 in CrI.O.P(MD).No.18236 of 2021 submitted that A2 was the then Minister of Milk and Diary Development, Government of Tamil Nadu and he is the District Secretary of AIADMK Party. During the period when A2 was holding the post, several persons used to meet him and give various petitions seeking help. A2 to the extent possible, within his power used to help the party men as well as the general public. In this case, A1 is a prominent party person in the District Legal Wing of AIADMK party and the Secretary of Students Wing. A1 used to meet A2 regularly and seek help. In this case, A2 neither promised any job in Aavin Department nor received money from anyone. A2 has not made any promise to secure the post of District Manger, Aavin to the defacto complainant's nephew. A1 projected his acquittance with A2, collected huge sums of money from various persons including the defacto complainant, for



which A2 could not be held responsible. The admitted case of the defacto complainant is that A3 projected himself to be in close acquittance with VIPs in AIADMK party and promised the defacto complainant to secure the post of District Manager, Aavin to his nephew. On this strength, defacto complainant met A1, who promised to secure the job and received the money from the defacto complainant on various occasions in the presence of A3. Since the promise made for the post of District Manager, Aavin and the Aavin Department comes under the control of A2, the name of A2 is wrongly projected and misused without his knowledge by A1 and A3. The learned Senior Counsel further submitted that there are several complaints against A1 and in order to escape from his misdeeds, A1 on coming to know about the complaint lodged by the defacto complainant as a counterblast, sent representation to various persons and lodged a complaint before the respondent Police against A2 and three others and managed to get registered a case in Crime No.20 of 2021. In the complaint, defacto complainant, nowhere mentioned that he met A2 and promised him to secure the job for his nephew. To somehow implicate A2 and to tarnish his image for brooking political vengeance, his name was included in the FIR in Crime No.19 of 2021.

8.The learned Senior Counsel further submitted that it is a well known



fact that the recruitment for the District Manager Post in Aavin was conducted by a recruitment agency. Only after completion of written test, the candidates will be selected for interview. The stage and progress of selection are available in the website. Only after qualification, the interview will be conducted by the concerned officers. This being so, A2 had no role in conducting examination and in selection process. Only after completion of selection process, for information and approval, the details of the selected candidates would be furnished to A2 and nothing more. The Aavin Department is headed by I.A.S officer, which comes under the purview of the Secretary of Milk and Dairy Development. The files for recruitment for the post of District Manager, Aavin passes through various level of officers including the Managing Director of Aavin and the Secretary of Milk and Dairy Development and thereafter only, it would be placed before A2. The role of A2 in the above process is very limited and he cannot arbitrarily select any person or compel the officers in the Department and interfere in the recruitment process against the prescribed norms and system.

9.The learned Senior Counsel further submitted that the mobile



conversation produced by the defacto complainant shows that it is only A1, who had spoken to the defacto complainant and made false promise for securing the post of District Manager, Aavin. Taking advantage of his proximity, A1 used the name of A2 on his own. Whatever promise made by A1 to the defacto complainant, it is on his own accord and is not known to A2. A2 toiled for growth and victory of AIADMK political party and he rose from grassroot level and reached the position of Minister for Milk and Diary Development due to his sheer hard work and dedication. It is further submitted that none of the officers from the Aavin Department made any complaint against A2 for any interference in the selection process of the District Manager Post. A2 has deep social roots and a permanent resident of Virudhunagar District and he will not evade justice and shall cooperate with the investigation. Hence, he prayed for grant of anticipatory bail to A2.

10.The learned counsel for the defacto complainant/Intervenor filed the Intervening Petitions along with typed set containing CD of mobile conversation between A1 and the defacto complainant, receipts for pledging jewels. The learned counsel for the defacto complainant/Intervenor submitted that A3 approached the defacto complainant, claimed that he is the member of



AIADMK party and he is well acquainted with the VIPs of the party, more particularly with A1, who is having good contact and relationship with A2, the then Minister of Milk and Diary Development. During the month of October 2020, when the defacto complainant's nephew Anand was in the defacto complainant's shop, A3 enquired Anand, gave promise that he would arrange the District Manager post in Aavin Department through A1. When defacto complainant and A3 met A1 at his residence, A1 assured to secure job, shared his contact number to the defacto complainant. Thereafter, A1 and the defacto complainant were in constant touch. Initially, there was demand for Rs.35,00,000/- for securing the post in Aavin Department and thereafter, it was reduced to Rs.30,00,000/- at the instance of the defacto complainant.

11.It is further submitted that from 02.11.2020 to 10.02.2021, Rs.30,00,000/- was paid to A1 at various places and the last payment of Rs.3,80,000/- was paid through RTGS transfer from the defacto complainant's account No.377505500022, ICICI Bank, Sattur Branch to the account of A1 in No.029001000024271, Indian Overseas Bank, Alangulam. All the transactions were made by the defacto complainant in the presence of A3. When the defacto complainant asked for confirmation of the job to gain



confidence, A1 took the defacto complainant to A2's house where he introduced the defacto complainant, A2 expressed his consent by saying '*do it accordingly after finishing our own formalities*'. After receiving such huge amount, the accused neither secured the post for Anand, nor returned the amount to the defacto complainant. When defacto complainant requested A1 to return the money, he asked him to come to several places and gave one reason or other and not returned the money. Finally, A1 asked the defacto complainant not to insist him to repay the amount for the present, since there was Income Tax raid in the house of A2. In yet another occasion, A1 informed that A2 was in Delhi. When the defacto complainant again insisted for repayment of money, he was abused and threatened. Thus, all the three accused in collusion had committed the offence of cheating. Hence, a complaint was lodged to the respondent Police and a case in Crime No.19 of 2021 was registered against accused/A1 to A3. The grievance of the defacto complainant is that he had taken loan from the bank and private persons and he is now forced to return the money with interest. He had lost all his properties and now, he and his family are in streets, due to the act of the accused. He further submitted that A1 & A2 are prominent persons, and are holding high post in opposition party. Since they are in a dominant position,



the witnesses will be threatened to give statement. Hence, the learned counsel for the intervenor strongly opposed these bail petitions and prayed for dismissal.

12.The learned State Public Prosecutor appearing for the respondents submitted that on the complaint of the defacto complainant, a case in Crime No.19 of 2021 was registered against the accused/A1 to A3, for offence under Sections 120(b), 406 and 420 IPC. A1 in Crime No.19 of 2021 gave a complaint against A2, Personal Assistant of A2 namely Baburaj, Balaraman and Advocate Muthupandian to the respondent Police and a case in Crime No.20 of 2021 got registered. A1 in this case is the defacto complainant in Crime No.20 of 2021. All the accused are having close nexus with each other and they involved in huge job racket scandal. He further submitted that A1 was the District Youth Wing Secretary and Vembakottai West Union Secretary in AIADMK party for Virudhunagar District and a loyalist of A2, who was the then Minister for Milk & Diary Development. A1 by making false promise of getting government job, had deceived and collected huge sums of money from innocent poor people/job aspirants at the instance of A2. Pursuant to the registration of the cases in Crime Nos.19 and 20 of 2021, sofar 23 victims



have come forward and given statement under Section 161(3) Cr.P.C., and confirmed that they had given Rs.1.6 Crores to A1 for securing jobs on the instruction of A2. A1 admitted that he was a loyal cadre of A2, who gifted Rs.10,00,000/- for purchase of innova car bearing registration No.TN 84 K 7799. A2 in his anticipatory bail petition refers A1 is an habitual offender, who involved in eight cases previously which are similar in nature. Knowing these facts, A2 had close nexus with A1 and A1 collected huge sums of money using A2's name. This being so, now A2 cannot make a turn around and claim that A1 alone had committed the offence. In the counter, he listed the names of the 23 persons who were cheated by the accused.

13.The learned State Public Prosecutor further submitted that A1 and A2 are still holding prominent position in the political party with men and muscle power. Hence, the victims, who lost money for job, will be threatened and dissuaded not to proceed with the complaint, if the accused are allowed to move freely. Further, one of the condition under Section 41 Cr.P.C., is that the Police officer, for proper investigation, can arrest any person to prevent tampering of witnesses, inducement or causing threat or promise to the



victims. In this case, since the accused are holding prominent post in a major political party, it would be an obstacle for free and fair investigation. Hence, the custodial interrogation is very much necessary to unearth the deep rooted conspiracy and to confirm the role played by each of the accused. Hence, he strongly opposed both the bail petitions.

14.This Court considered the rival submissions and perused the materials available on record.

15.A1, the District Youth Wing Secretary, Advocate Wing Secretary and Vembakottai West Union Secretary in AIADMK party for Virudhunagar District and a close loyalist to A2, who was the then Minister for Milk & Diary Development. A1 and A2 were in close acquaintance seen together and worked in tandem. Now, after the complaint of the defacto complainant, they are making allegations and counter allegations against each other. A1 lodged a complaint in Crime No.20 of 2021 against A2 and three others. During the relevant period, A2 was the Minister of Milk and Diary Development and A1 was in close proximate with A2. Whenever A2 visited Virudhunagar, they used to move around closely. Thus, A1 projected himself as contact person



and pointsman of A2, collected huge sums of money from the victims/job aspirants more particularly the defacto complainant.

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16.The defacto complainant paid Rs.30,00,000/- to A1 on several occasions for securing job for his nephew. On 02.11.2020, initially, the defacto complainant handed over Rs.5,00,000/- to A1 at his house in the presence of A3. On 28.12.2020, he handed over to Rs.5,00,000/- to A1. On 31.12.2020, the defacto complainant pledged his wife's jewels in Tamil Nadu Grama Bank, Srivilliputhur for Rs.10,00,000/- and handed over the same to A1 in the presence of A3. Thereafter, the defacto complainant on 14.01.2021 arranged Rs.5,00,000/- through his friend Mariyappan and handed over the amount to A1 near Kazhugumalai Police Station. Lastly, on 10.02.2021, the defacto complainant arranged Rs.1,20,000/- in cash and handed over the amount to A1 near Sattur Toll Plaza and transferred Rs.3,80,000/- through bank from his account No.377505500022, ICICI Bank, Sattur Branch to the account of A1 in No.029001000024271, Indian Overseas Bank, Alangulam. In order to substantiate the above transactions, the defacto complainant produced the receipts for pledging jewels and bank transaction details. He also produced the CD containing the conversation between A2 and the defacto



complainant and its transcripts. On perusal of the same, it is seen that A1 in a tactful manner deceived defacto complainant and compelled him to part with such huge amount on the promise of securing job in Aavin Department, a Government undertaking under the control of A2.

17. On one occasion, the transaction was done through bank, which are to be necessarily investigated by the respondent Police. A2, who was holding the post of Minister, was entrusted with the public duty to act with public interest. On the contrary, he allowed A1 and A3 to project themselves and collect huge sums of money from innocent victims by his name. While being so, A2 now claiming that he was betrayed by A1 and pleading innocence that A2 is no way connected with any of the act of A1 cannot be accepted. More so, the defacto complainant had given details on the mode and manner, by which the money was handed over to A1 on the instruction of A2, which are has to be verified during the course of investigation.

18. In the case of “*Siddharam Satlingappa Mhetre Versus State of Maharashtra and others reported in (2011) 1 Supreme Court Cases 694*”, the Hon'ble Apex Court had referred various citations and considered the



'personal liberty' and its violation right, referring to “***A.K.Gopalan Versus State of Madras reported in AIR 1950 SC 27***” and considered the position in UK, USA, West Germany, Japan, Canada, Bangladesh, Pakistan, Nepal and International Charters-Universal Declaration of Human Rights, 1948, Covenant on Civil and Political Rights (1966), European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 taking note, given guidelines of 10 parameters to be considered while exercising power under Section 438 Cr.P.C.

19.In this case, the antecedents of A1 shows that from the year 2015 onwards, he had been successfully cheating several job aspirants by collecting huge sums of money. Though he had switched loyalty from one party to another, his act of cheating job aspirants continues.

20.In this case, A1 is not a stranger and he is a prominent person holding high position in political party. His conduct and activities are well known. Even on one occasion, this Court had given a direction to the Superintendent of Police, CBCID to conduct investigation on job scandle involving the High Court. A person with such credentials is given proximity,



patronized whenever it suited. Now, getting enriched and benefited, calling A1, a blacksheep, opportunist, job racketeer misusing A2's name, is to big a pill to swallow.

21. One thing is certain that all the victims hail from Virudhunagar District and they are innocent poor persons, who lost money to the accused. The accused are holding prominent position in a major political party of the District having considerable clout. In the case of job racketing, the anxiety and the gullibility are exploited by the persons who are in position or persons who have access and proximity. In this case, A1 making use of his position and proximity, exploited the situation. A2 by being passive, approved the misdeeds of A1. In this process, innocent persons lost their money and future, which cannot be ignored. Only thorough investigation, can unearth the deep rooted conspiracy and the involvement of the role played by each of the accused.

22. This Court, on the facts and circumstances of the case, is not inclined to entertain both Anticipatory Bail petitions and the same are liable to be dismissed and, are dismissed. This Court directs the respondent Police to conclude the investigation, giving top priority, within a stipulated time.



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To

1.The Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.

2.The Public Prosecutor,
High Court, Madras.



CrI.O.P(MD).Nos.18236 & 18238 of 2021

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M.NIRMAL KUMAR, J.

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CrI.O.P(MD).Nos.18236 & 18238 of 2021

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