

**IN THE COURT OF THE XXVI ADDL. CITY CIVIL &
SESSIONS JUDGE, AT MAYO HALL, BENGALURU
(CCH.20)**

Present:

**Sri.D.S.Vijaya Kumar, B.Sc, LL.B.,
XXVI Addl. City Civil & Sessions Judge, Bengaluru**

Dated this the 19th day of November, 2020

Crl.Misc.No.25888/2020

Petitioner:-

G.Antony Kenselin
S/o Gnana Prakasam Gabreil,
Aged major, R/a. No.24/25, Nanjil
Cottage, Mulloorthurai,
Thengapattanam Post, Kanya
Kumari, Tamil Nadu-629173.

[By Sri.H.P.S.-Adv.]

Vs.

Respondent:-

State By Marathahalli Police
Station, Bengaluru.

[By Public Prosecutor]

ORDER

Petitioner has filed this petition under section
438 of Cr.P.C. praying for granting an order of

anticipatory bail in respect of the offences alleged under sections-420 and 506 of Indian Penal Code, in crime No.498/2019 of Marathahalli Police Station, which is registered on the basis of the complaint of one Lohith Kumar.

2. Brief facts of the petition are as under:-

On 06.12.2019 one Lohith Kumar, has lodged a complaint with the Respondent Police station, against the Petitioner, for the alleged offences under sections-420 and 506 of Indian Penal Code. Now, based on the false complaint, Respondent Police are making attempt to arrest him in the case. That, the matter is civil in nature and complainant has not complied with the terms of the Agreements entered into between him and informant. He has deep roots in the society and if he is arrested he will

be subjected to harassment as a false case has been registered against him. Offences are not punishable with imprisonment for life or death. He has undertaken to abide by any conditions that may be imposed by the court. Hence, on these grounds, Petitioner has sought for granting an order of Anticipatory bail by allowing this bail petition.

3. Objection filed by the prosecution to the petition is as under:

On the basis of the complaint lodged by on Lohith Kumar, Respondent Police have registered a case in Crime No.498/2019 for the offences punishable under sections-420 and 506 of Indian Penal Code, against the petitioner. As could be seen from the complaint, in crime No.498/2019 of Marathahalli Police Station which is registered for

the above said offences, accused/petitioner has committed the offences alleged. If the Petitioner is granted an order of Anticipatory bail, there is likely hood of Petitioner tampering the prosecution evidence and threatening the witnesses and he may abscond from trial. Therefore, Petitioner is not entitled to an order of anticipatory bail as sought for. Hence, the learned Public Prosecutor has sought for rejection of the bail petition.

4. Heard arguments.

5. In the circumstances, following points arise for determination:

1) Whether the Petitioner is entitled to an order of anticipatory bail as sought for?

2) What order?

6. My findings on the above points are under:

Point No.1 : In the **affirmative**.

Point No.2 : As per final order
for the following:

REASONS

7. Point No.1:-FIR in Crime No.498/2019 has been registered by the respondent Police on the complaint of one Lohith Kumar for the offences punishable under sections 506 and 420 of Indian Penal Code. Allegations in the complaint show that informant has entered into a business agreement with the petitioner and invested a sum of Rs.2,21,63,800/-. It is alleged that when the business was started, a sum of Rs.30.00 lakhs was paid to the petitioner towards the commission and business was run together by the petitioner and informant for about six months. In the month of December 2016

petitioner drove away employees of their company situated in Tamil Nadu. In that connection, three months ago informant called on the petitioner over phone and asked for returning his investment. At that point, petitioner abused the informant in filthy language and refused to return the money invested by the informant. Further, it is alleged that petitioner being Proprietor of the Company by name Nagnil Sea Foods has taken Rs.15.00 lakhs towards advance and in all Rs.2,21,63,800/- and then has not allowed the informant to run the business by driving away the staff and not returned money invested by him and further has posed threat to his life.

8. According to petitioner/Accused, he was supplying sea food to the informant. After gaining trust of the petitioner, informant had expressed his interest to run one of the units of the petitioner

company situated at Thondai. As the petitioner had a few health issues and was finding it difficult to manage the unit, had entered into Agreement of Lease in respect of the said Unit with the informant and informant had promised to pay a sum of Rs.72.00 lakhs per year as lease amount for the premises and other equipments and service and had also agreed to pay salary and electricity bills and miscellaneous expenses to run the industry and thereafter had paid advance amount of Rs.15.00 lakhs to the petitioner. However, later on, the informant expressed inability to comply with the financial commitments made in the Agreement dated 18.08.2015 and requested for a Partnership deal and hence another Agreement was entered into on 10.03.2016, as according to which, informant had promised to pay a sum of Rs.2.00 Crores and

petitioner was to invest Rs.60.00 lakhs and two others namely Uday Shetty and Namitha Shetty had agreed to pay Rs.30.00 lakhs each. But, informant failed to keep the promise made under the two Agreements and did not pay Rs.26.00 lakhs which was due by him to the petitioner towards supply of Prawns, Scquid and Cuttle fish. When the informant was running the business of the petitioner company unit for a brief period, informant secured credit of Rs.2,60,000/- from one Thai Aqua, Rs.18,00,000/- from Five Star Aqua and Rs.16,00,000/- from one Mr.Philips by using guarantee of the petitioner's company and as a result, said creditors started pressurizing the petitioner to settle the dues. Agreements entered into between the petitioner and complainant have stood terminated in view of non compliance by the informant and hence

petitioner is not liable to make any payment to the informant. By lodging false complaint, petitioner was made to appear before Marathahalli Police Station and by threatening to arrest him, he was made to issue five blank cheques to the informant and also his signatures were taken on blank papers. On the basis of the same, a Regd. Agreement of Sale has been obtained in the name of one Mahesh Suvarna, claiming that payment of Rs.40.00 lakhs has been made with regard to the property belonging to the petitioner. In the above background, informant has lodged false complaint against the petitioner and there is imminent threat of petitioner's arrest in the case, in which event, petitioner would be subjected to humiliation, harassment and torture. Thus, petitioner has sought for granting an order of Anticipatory Bail .

9. It is axiomatic from the averments of the complaint and petition that undisputedly petitioner and the informant have together carried on business. Petitioner is not disputing the said fact. However, petitioner claims that informant has committed breach of contract and failed to comply with the terms of the agreement by expressing financial inability to fulfill the commitments made under the Agreements. At the outset, dispute appears to be contractual in nature and it has colour of civil nature. In the said background, I am of opinion that if the petitioner who is admittedly running the company which supply sea foods, if arrested and sent to the custody, would suffer irreparable damage to his reputation as well as to the business and would also suffer humiliation, torture and harassment. As the offence alleged

under sections 506 and 420 of Indian Penal Code are not punishable with imprisonment for life or death and also no grave circumstances are seen and dispute between the petitioner and complainant is based on written agreement, I am of opinion that by imposing appropriate conditions to ensure that there would not be any hindrance to the investigation or manipulation of the evidence, an order of Anticipatory Bail may be granted to the petitioner. Consequently, Point No.1 is answered in **affirmative.**

10. Point No.2: On the above findings, I proceed to pass the following:-

ORDER

Bail petition filed by Petitioner under Sec.438 of the Cr.P.C **is hereby allowed,** by granting an order of

anticipatory bail, subject to the following conditions:-

1) Petitioner shall give attendance before the I.O., Marathahalli Police Station, on every alternative Sunday from 10 a.m. to 2 p.m. for two months from the date of this order.

2) Petitioner shall co-operate with the investigation.

3) Petitioner shall not commit similar offences or any other offenses.

4) Petitioner shall not threaten the prosecution witnesses or

tamper with the prosecution evidence.

5) In the event of arrest of the petitioner in Crime No.498/2019 of the Respondent Marathahalli Police Station, he shall be released on bail on obtaining his personal bond for Rs.2,00,000/- with one surety for likesum.

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(Dictated to the Stenographer, transcribed by him, then corrected and pronounced by me on this the **19th day of November, 2020**)

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(D.S.Vijaya Kumar)
XXVI Addl.CC & SJ, M.H.Unit,
Bengaluru.

Vk

(Order pronounced vide separate order)

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(D.S.Vijaya Kumar),
XXVI ACC & S J, Bengaluru

