



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

Friday, the Twenty Seventh day of February Two Thousand Fifteen

PRESENT

THE HON`BLE MR JUSTICE P.N.PRAKASH
CRL OP(MD) No.1433 of 2015

WEB COPY
P.ABRAHAM

... PETITIONER / ACCUSED (Single)
Vs

THE INSPECTOR OF POLICE
SURANDAI POLICE STATION, TIRUNELVELI DISTRICT.
CR.NO.144/2014.

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.K.PRABHU Advocate

For Respondent : MR.A.P.BALASUBRAMANIAN, GOVT. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

C The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 467 and 471 IPC in Crime No.144 of 2014 on the file of the respondent police, seeks anticipatory bail.

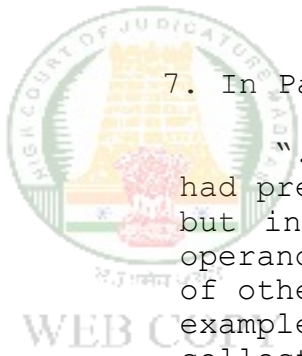
2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

3. The case of the prosecution is that this petitioner and the defacto complainant are good friends. It is alleged by the defacto complainant that this petitioner came to his house some time before 09.04.2014 and had taken blank cheques, Pan Card and ID Proof and he filled up the cheques and tried to encash the same. When the cheques were presented for collection, the defacto complainant came to know about it from the SMS sent by his Bank and thereafter, he gave stop payment to those cheques.

4. Per contra, the learned counsel appearing for the petitioner submitted that the cheques were issued legally by the defacto complainant and they were dishonoured due to insufficient funds and thereafter, the petitioner issued statutory notice under Section 138 of the Negotiable Instruments Act, 1881 and initiated prosecution against the defacto complainant. Even for the statutory notice issued against the defacto complainant under Section 138 of the N.I.Act, 1881, he has not given any reply.

5. This Court granted interim anticipatory bail to this petitioner for a period of two weeks with a direction to appear before the respondent police and show the proof regarding filing of the petition under Section 138 of N.I.Act against the defacto complainant.

6. Police have filed a detailed status report in which they have stated that the petitioner has filled up Cheque Nos.754251 to 754300 and has forged the signature of the defacto complainant and issued the cheques to various persons for presentation.



7. In Paragraph No.3 of the counter, the respondent police have stated as follows:

"...3.It is pertinent to note that the defacto complainant had presented the all cheques for collection for not in his name but in the name of different persons whom he knew. The modus operandi of the petitioner by presenting the cheques in the name of other was only to screen himself from the liability. Take for example to the petitioner presented the cheque No.754275 for collection in the name of one A.Muruganantham of Kovilpatti with A/C No.32533269708 for Rs.70,000/- and the same was created in the name of said A.Muruganantham. The petitioner had presented the cheques for collection for a total Rs.11,90,000/-."

8. This Court called for the CD file and found that the Police have obtained certain particulars from the State Bank of India, Surandai Branch in which the defacto complainant is having his account, relating to 58 cheques in question. It is seen that on a single day, i.e., 09.04.2014, 21 cheques each valued at Rs.9,00,000/- and one cheque at Rs.10,00,000/- have been presented for collection by the following persons, namely, P.Abhirham, K.P.Batta, Karupasamy, M.Selvaraj, Sureshkumar, V.Muthupandy, P.Palsamy, Muruganantham etc. This definitely shows that the cheques of the defacto complainant have been misused by this petitioner by issuing them to various persons, who have deposited those cheques on the same day, i.e., 09.04.2014.

9. Learned counsel for the petitioner submitted that on account of the dishonour of the cheques, proceedings under Section 138 of N.I. Act has been launched. The launching of prosecution under Section 138 of N.I.Act will not absolve the criminal liability of the petitioner inasmuch as it is prima facie seen that this petitioner had stealthily taken away the blank cheques of the defacto complainant and issued to various persons, who have, on a single day, presented 21 cheques for clearance.

10. Therefore, in the light of the serious nature of allegations against this petitioner, the custodial interrogation of his is essential to find out who are all involved in the offence and how cheques were forged. Hence, the Criminal Original Petition is dismissed.

sd/-
27/02/2015

/ TRUE COPY /

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

TO

- 1 THE INSPECTOR OF POLICE
SURANDAI POLICE STATION, TIRUNELVELI DISTRICT.
- 2 The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Sm:05.03.2015:2P/3C:

ORDER
IN
CRL OP(MD) No.1433 of 2015
Date :27/02/2015