



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

Wednesday, the Fourth day of February Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.16077 of 2014

WEB COPY

SURYA MOORTHY

... PETITIONER/ACCUSED NO.1

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
THOOTHUKUDI CENTRAL POLICE STATION,
THOOTHUKUDI DIST,
CR.NO.448/2014

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.ANAND Advocate

For Respondent : MR.C.RAMESH, Govt. Advocate (Crl. Side)

For Intervener : MR.ANANTH C.RAJESH, Advocate

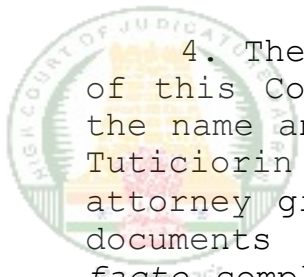
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 406 and 420 of the Indian Penal Code, in Crime No.448 of 2014, on the file of the respondent police, seeks anticipatory bail.

2. Heard R.Anand, learned counsel appearing for the petitioner, Mr.Ananth C.Rajesh, learned counsel appearing for the intervener and Mr.C.Ramesh, learned Additional Public Prosecutor appearing for the respondent.

3. The case of the *de facto* complainant is that this petitioner is running a Finance company, from where the *de facto* complainant had obtained a jewel loan of Rs.85,000/-, on 06.07.2005, after pledging the jewels. Subsequently also, the *de facto* complainant needed more money and so, she approached the petitioner and gave her immovable property as security, on 20.12.2006 and obtained loan of Rs.5,00,000/-, at the rate of 1.5%. It is alleged by the *de facto* complainant that she had paid principal and principal interest to the petitioner in spite of which, the petitioner has alienated the property by executing a sale deed in favour of his wife, on 30.07.2009. The complaint was lodged only on 19.03.2014 by the *de facto* complainant, in which she has alleged that the petitioner had obtained a power of attorney from the *de facto* complainant, without her knowledge.



4. The learned counsel for the petitioner brought to the notice of this Court that the petitioner is running a Finance Company in the name and style "Tuticorin Town Port City Benefit Fund Limited", Tuticiorin District. He produced the mortgage deed and the power of attorney given by the *de facto* complainant on 20.12.2006. Both the documents are registered documents and the photographs of the *de facto* complainant have also been affixed in the said documents. In both the documents, the husband of the *de facto* complainant has signed as witness. Thus, it appears that the *de facto* complainant has taken loan for Rs.5,00,000/- and has not only executed a mortgage deed but also executed a power of attorney in favour of the petitioner and when she defaulted in repaying the loan amount, the property was transferred in the year 2009 by the petitioner in favour of his wife, for which complaint has been given in the year 2014. In such circumstances, this Court is inclined to grant Anticipatory Bail to the petitioner.

5. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on 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.II, Thoothukudi, 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 and on further condition that:

[a] the petitioner shall report before the respondent police twice a day at 10:30 in the morning and 06:30 in the evening for a period of two weeks and thereafter as and when required for interrogation.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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]**.

The Inspector of Police concerned is directed to send compliance report to the office of the learned Additional Public Prosecutor whether the petitioner is complying with the order or not. Consequently, connected Miscellaneous Petition is closed.

sd/-

04/02/2015



TO

1 THE JUDICIAL MAGISTRATE, NO.II, THOOTHUKUDI

2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI

3 THE INSPECTOR OF POLICE
THOOTHUKUDI CENTRAL POLICE STATION,
THOOTHUKUDI DISTRICT.

4 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.R.ANAND Advocate SR.No.5109

+1cc to Mr.ANANTH C.RAJESH, Advocate, SR.No. 5220

ORDER

IN

CRL OP(MD) No.16077 of 2014

Date :04/02/2015

NA/05/02/2015/P3/7C