



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

Thursday, the Eighth day of January Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.17709 of 2014

WEB COPY

1 GNANA SELVADOSS

2 MRS. S. VENITA

... PETITIONERS/ACCUSED

Vs

THE STATE REP BY
THE SUB-INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
NAGERCOIL, KANYAKUMARI DT,
CRIME NO.65/2011

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.A.MAHENDRAVARMAN Advocate

For Respondent : Mr.A.P.BALASUBRAMANI,
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

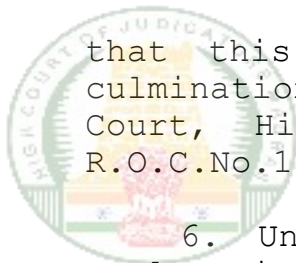
The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 294(b), 341 and 506(ii) IPC in Crime No.65 of 2011 on the file of the respondent police, seek anticipatory bail.

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

3. The case of the prosecution is that the first petitioner, who is a Sub-Inspector of Police, borrowed money from the defacto complainant in the year 2005 and had not made payments. On the complaint lodged by the defacto complainant, this case has been registered in the year 2011.

4. Learned Government Advocate (Crl.Side) on instructions from Police as on 06.10.2014 submits that hand writing expert's report was not received from the Forensic Science Department.

5. To controvert this argument, learned counsel for the petitioners produced the hand writing expert' report, which was received by the Court on 23.08.2013. This Court is indeed surprised to note that as to how the learned Judicial Magistrate, Nagercoil has issued a certified copy of this document even before final report is filed. A Full Bench of this Court in Selvanathan @ Raghavan and others vs. State by Inspector of Police, G5 Police Station, Madras, reported in 1988 L.W.(Crl.) 503 has clearly held



that this document cannot be furnished to the accused before culmination of investigation. Pursuant to the judgment of this Court, High Court of Madras has also issued a circular in R.O.C.No.1823-A/2010 dated 20.04.2010.

6. Under such circumstances, this Court is calling for an explanation from the learned Judicial Magistrate No.I, Nagercoil under what circumstances, a certified copy of the Forensic Science Department's report and other documents have been furnished to the accused.

7. If the petitioners have obtained the illegal copy of this report, this Court would have unhesitatingly dismissed the petition. But it is seen that the petitioners have obtained the certified copy of the said report and therefore, they cannot be faulted with. Further, on reading of the complaint, the transaction appears to be civil in nature. Therefore, I am inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Nagercoil, on condition that each of 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 petitioners shall report before the respondent police as and when required for interrogation.

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

[c] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

sd/-
08/01/2015

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



TO

1 THE JUDICIAL MAGISTRATE, NAGERCOIL

2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI AT NAGERCOIL

3 THE SUB-INSPECTOR OF POLICE DISTRICT CRIME BRANCH, NAGERCOIL,
KANYAKUMARI DT,

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

+2. CC to M/S.A.MAHENDRAVARMAN Advocate SR.No.1472

ORDER

IN

CRL OP (MD) No.17709 of 2014

Date :08/01/2015

NA/19/01/2015/P3/7C