



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

Monday, the Twenty Third day of March Two Thousand Fifteen

PRESENT

THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL OP(MD) Nos.3209 & 3426 of 2015

MUTHURAM ... PETITIONER/ACCUSED NO.2 IN CRL.OP(MD)NO.3209/15
RAMESH BABU ... PETITIONER/ACCUSED NO.1 IN CRL.OP(MD)NO.3426/15

Vs

THE INSPECTOR OF POLICE
SOUTH GATE POLICE STATION (CRIME),
MADURAI CITY, CRIME NO.156/2015 ... RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

For Petitioner : M/S.R.MURUGAPPAN Advocate IN BOTH PETITIONS

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)
IN BOTH PETITIONS

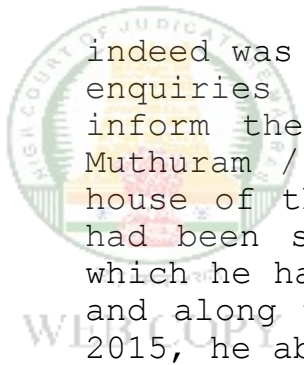
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 406, 420 and 381 IPC in Crime No.156 of 2015 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. This case has been registered pursuant to a direction issued by this Court in Crl.O.P.(MD) No.1382 of 2015. It is the case of the defacto complainant that he is into waste paper business for over 40 years. Muthuram / petitioner in Crl.O.P.(MD) No.3209 of 2015 was working under the defacto complainant for 20 years and similarly Ramesh Babu / petitioner in Crl.O.P.(MD) No.3426 of 2015 was working as Driver for six years under the defacto complainant and thus both of them earned his confidence. The defacto complainant used to keep heavy cash received through collections from various customers in a locker that is located in the 2nd floor room of his shop. The 2nd floor room has also a door, which is also locked. When the defacto complainant opened the locker for taking money to deposit in the Bank, on several occasions, he noticed shortfall in the cash bundles, but did not observe any marks or evidence of anyone having attempted to forcibly open the locker. On 01.07.2014, the defacto complainant went to Bangalore and when he returned on 02.07.2014 morning and opened the locker, he found Rs.5,00,000/- missing. This



indeed was shocking to the defacto complainant and he started making enquiries with all his employees and warned them that he would inform the matter to the Police. After enquiry, it appears that Muthuram / petitioner in Crl.O.P.(MD) No.3209 of 2015 came to the house of the defacto complainant and confessed to his wife that he had been stealthily taking money with the help of duplicate key, which he had made. Imbued by feeling of guilt, he gave Rs.1,00,000/- and along with Ramesh Babu / petitioner in Crl.O.P.(MD) No.3426 of 2015, he abandoned the job and became scarce.

4. Learned counsel for Ramesh Babu / petitioner in Crl.O.P.(MD) No.3426 of 2015 submitted that earlier two anticipatory bail petitions were filed by him in Crl.O.P.(MD) Nos.14371 and 16925 of 2014 in which it was stated that only enquiry is pending and he was granted anticipatory bail by this Court on 01.08.2014 and 10.09.2014 respectively. In Crl.O.P.(MD) No.14371 of 2014, the respondent was shown as City Central Crime Branch, Madurai City and in Crl.O.P.(MD) No.16925 of 2014, the respondent was shown as South Gate Police Station, Madurai City. Therefore, he contended that the Police conducted enquiry and closed the case against the petitioners, because of the falsity in the allegations of the defacto complainant. Learned counsel for the petitioner also submitted that the petitioners had started a rival business and therefore, the defacto complainant is framing them in this case. Learned counsel for the petitioner further argued that even according to the defacto complainant the locker is inside the room in the 2nd floor, which is also locked, but the complaint only shows that the Muthuraman had made only one key. In other words, it is the contention of the learned counsel for the petitioners that the cash is kept inside the locker, which has a key and the room in which the locker is kept is also locked and that lock also has a key, but the defacto complainant has stated in the complaint that Muthuram / petitioner in Crl.O.P.(MD) No.3209 of 2015 had not told the wife of the defacto complainant that he had made two keys. Bearing all these factors in mind, this Court granted interim anticipatory bail to these petitioners on 05.03.2015 with a direction to them to appear before the respondent police everyday at 11:00 a.m.

5. The respondent police have filed a detailed status report dated 19.03.2015, wherein in Paragraph Nos.5 and 6, it is stated as follows:

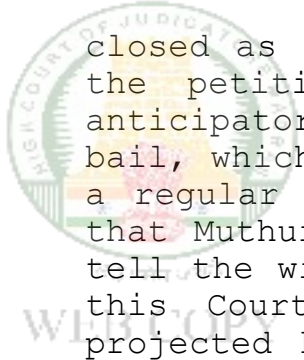
"5. I respectfully submit that the some facts are elicited in my investigation. The defacto complainant running a paper dealership agency in the name of style "Sri Meenakshi Industries", and locate his office at Door No:27-C, Bandhadi 5th Street, Madurai-1. For his convenience to do his business he employed four persons in his office. The defacto complainant run his business, with the yearly turnover up to 10,00,000/- and also pay the income-tax, and other taxes related to this business. The defacto complainant have one Son and 3 daughters. Now the three daughters were married and live separately, one in London, one in Bangalore another one in Kovilpatti. He run his life with family and his business. Meanwhile the 1st petitioner /



Accused Ramesh Babu join as a driver. As soon he became a sincere and trustful labor for defacto complainant. He survived the entire circumstance of the defacto complainant and act as a Personnel Assistant to defacto complainant. The defacto complainant gave important works related with money to Ramesh Babu. Meanwhile he lost his shop Chest key and ask Ramesh Babu to make a duplicate key. The complainant stated that Ramesh Babu used this incident and make another duplicate key for him. On that days the defacto complainants have some family worried due to his daughter married life who is stay at London and unable to present his office for business he direct his wife Mrs.Gomathi to maintain the office for such days. Already the 1st petitioner / accused Ramesh Babu get guilty to cheat his owner and to earn money. He used his clever plans with the help of another 2nd petitioner / Accused Muthuram. From 2013 to 2014 he earn like this way, got much money. Meanwhile the defacto complainant placed some amount in his Chest in shop and went Bangalore. He returned to his shop after two days he came to know about 5 lakhs was missed. He enquired his staff's and asked to return within two days other wise lodged a complaint to Police. On the next day the both petitioner's gave Rs.1,00,000/- lakhs to the defacto complainant's wife and absconded. After that the defacto complainant check his accounts and came to know there was much amount cheated, hefted by the 1st accused and lodged a complaint to the Police.

6. I humbly submit that in my interrogation the 1st petitioner / Accused salary only Rs.7,500/- for month, but he purchased a land for 75,000/- (only the Govt. registered value) in Madurai City limit, and built a house estimated likely rupees seven lakhs (approx). He also purchased a Maruthi Taxi car W.Rs.3,38,000/- paid only the advance amount Rs.51,000/- and find a loan from Mahindra & Mahindra Finance coy. He done the marriage settlement for his sister and also run a family. The above all things didn't able to completed with his small salary only. Due to this, the 1st petitioner / Accused stated he got 25 sovereign jewels from my wife as dowry and used that jewels to bought a land and to built the house. But it is false. He also stated he bought money from one person who took lease of his house to built his house. But as per the record the lease amount bought after completed the house dated 09.02.15 and came as tenant on 11.02.15. On my enquiry, I conclude there was possible by these ways to cheated the defacto complainant by the 1st petitioner / Accused."

6. This Court called for the records from the Police and found that the defacto complainant had given only one complaint to the Commissioner of Police and that the said complaint was forwarded by the Commissioner of Police first to the City Central Crime Branch and thereafter, it was forwarded to the South Gate Police Station, Crime Section for investigation. At no stage, investigation was



closed as alleged by the learned counsel for the petitioners. When the petition enquiry was pending, the petitioners applied for anticipatory bail twice, but this Court granted them anticipatory bail, which will not enure to the benefit of these petitioners after a regular case is registered by Police. As regards the contention that Muthuram / petitioner in Crl.O.P.(MD) No.3209 of 2015 did not tell the wife of the defacto complainant that he prepared two keys, this Court finds that it is not a very serious omission, as projected by the defence. The defacto complainant has stated that when he started making enquiries, Muthuram / petitioner in Crl.O.P.(MD) No.3209 of 2015 had gone to his wife and may be on account of being penitent for having cheated his master, who had trusted him for over 20 years, he would have confessed to her that he had taken money through duplicate key. At that time, no person will be expected to ask him how many keys he made? and where are all those keys? for, there attention will be on the loss of money and not in the intricate details of theft. Only after interim anticipatory bail was granted, when Police started thoroughly interrogating the petitioners, it came to light as to how these petitioners have prepared keys for the room and the locker. As regards the contention that these petitioners were starting a rival business and hence, this case has been foisted, the Police investigation shows the sudden affluence of the petitioners especially of the petitioner in Crl.O.P.(MD) No.3426 of 2015 / Ramesh Babu, who was drawing only Rs.7,500/- per month.

7. In the light of the aforesaid facts, this Court is of the view that this is not a fit case to grant anticipatory bail to these petitioners. Hence, both the Criminal Original Petitions are dismissed.

sd/-

23/03/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1. THE INSPECTOR OF POLICE
SOUTH GATE POLICE STATION (CRIME), MADURAI CITY.

2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.R.MURUGAPPAN Advocate SR.No. 14139

SR : 25.03.2015 : 4P/4C

ORDER

IN

CRL OP(MD) Nos.3209 & 3426 of 2015

Date :23/03/2015