



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Eleventh day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.3368 of 2015

V.R.MANIGANDAN,

..PETITIONER/ACCUSED

Vs.

STATE REP.BY THE INSPECTOR OF POLICE

DISTRICT CRIME BRANCH,

SIVAGANGAI.

CRIME NO. NOT KNOWN OF 2015

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.J.A.S.SATHISHKUMAR Advocate

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

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 offences punishable under Sections 406, 420 and 384 IPC in Crime No.7 of 2015 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.

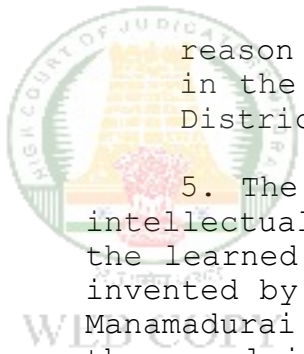
3. On 25.02.2015, this Court, while granting interim anticipatory bail to this petitioner, passed the following order:

"3. According to the defacto complainant, the petitioner was working as Assistant under him. While so, it is asserted by the defacto complainant that he had designed an electric scooter after sustained research. Now it is alleged by the defacto complainant that the petitioner had stolen the knowhow of the technology and is now wrongfully claiming that he has designed the said scooter.

4. The learned counsel for the petitioner placed several documents to show that there has been a long list of correspondence between the petitioner and the defacto complainant with regard to the dispute relating to this invention."

4. Today, the respondent police have filed a status report, in which in Paragraph No.5, it is stated as follows:

"5.I respectfully submit that this petitioner appeared before the respondent police on 04.03.2015 and 06.03.2015 at 6.30 p.m. the investigation is going on the defacto complainant and the accused not produced any valid document. The learned Magistrate No.II, Sivagangai in his order dated 03.03.2015 return back the recovered properties to me for kept in the office of the District Crime Branch, Sivagangai for the



reason that insufficient place to keep the recovered properties in the court premises. Now the recovered properties kept in the District Crime Branch Police Station.”

5. The allegation against this petitioner is that he had stolen the intellectual property of the defacto complainant. It is represented by the learned counsel for the petitioner that the Electric Scooter that was invented by this petitioner was kept for public display in M.S.M.Mahal in Manamadurai on 18.02.2015 and also for introduction of the concept. On the complaint lodged by the defacto complainant, Police have taken away the said Scooter on 20.02.2015.

6. In cases involving rival claims for intellectual property, there should first be a decision of a Civil Court or concerned authority about the ownership of the intellectual property and that cannot be decided by Police in an investigation under Chapter 12 of the Code. Where Corporeal property is involved, theft of it can be determined prima facie by Police during Police investigation. That cannot be done in respect of intellectual property. Therefore, the parties should have to decide the matter about their rights before the appropriate forum.

7. Under such circumstances, this Court is of the view that this is a fit case to grant anticipatory bail to this petitioner. 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, Sivagangai, 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 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].

8. However, learned counsel for the petitioner apprehends that Police have handed over the Scooter itself to the defacto complainant.

9. The petitioner is given liberty to approach the concerned Magistrate for return of the property by filing appropriate application and the learned Magistrate shall conduct enquiry and find out where the Scooter is kept and pass appropriate orders thereon.

sd/-

11/03/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)



TO

1 THE JUDICIAL MAGISTRATE NO.II, SIVAGANGAI.

2 -do-thro' THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

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

4 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, SIVAGANGAI.

+1. CC to M/S.M.Thirunavakkarasu, Advocate SR.No.11758

ORDER IN

CRL OP(MD) No.3368 of 2015

Date :11/03/2015

PBK 13/03/2015 ::3P-6C: