



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

Thursday, the Fifth day of March Two Thousand Fifteen
PRESENT

THE HON'BLE MR JUSTICE P.N.PRAKASH
CRL OP(MD) No.3980 of 2015

G. BALAMURUGAN

... PETITIONER / SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
UMACHIKULAM POLICE STATION, MADURAI DT,
CRIME NO.787 OF 2014

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.J.JEYAKUMARAN 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 :-

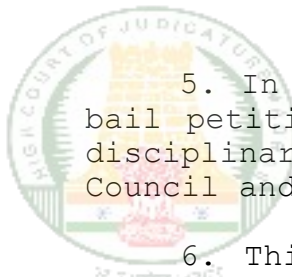
The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 506(i) IPC in Crime No.787 of 2014 on the file of the respondent police, seeks anticipatory bail.

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

3. On 06.01.2015, this Court granted anticipatory bail to this petitioner with a direction to surrender before the concerned Court within 15 days from the date of receipt of a copy of the order. The petitioner filed an extension petition in M.P.No.1 of 2014 in Crl.O.P/(MD) No.13018 of 2014 and that was also ordered by this Court. Even thereafter, he did not surrender before the concerned Magistrate.

4. In Paragraph No.2 of the affidavit, the petitioner has given an explanation, which is as follows:'

"The actual facts of the case was the defacto complainant has neither executed an agreement nor paid money to the petitioner. Hence, the petitioner had filed an Anticipatory bail petition before this Hon'ble Court in Crl.O.P.(MD) No.13018 of 2014 and this Hon'ble Court granted Anticipatory bail on 06.01.2015. Thereafter, the petitioner met with bike accident and sustained grievous injury. Therefore, he was unable to produce sureties before the trial court. Hence the petitioner filed an extension petition before this Hon'ble Court in M.P.No.1 of 2015 in Crl.O.P.(MD) No.13018/2014, seeking for an extension of time to surrender before the trial court. On 04.02.2015, this Hon'ble Court allowed the petition by extending the period of 2 weeks. The said order copy was received on 10.02.2015. Thereafter, instead of sending order copy to the petitioner G.Balamurugan, mistakenly the copy was sent to other client through courier. The counsel for the petitioner was under impression that the petitioner received the order copy and executed sureties before the trial court. On 23.02.2015 the counsel for the petitioner came to know about the mistake was committed by his junior advocate. This was not wilful nor wanton. Hence the petitioner moved present 2nd anticipatory bail application before this Hon'ble Court."



5. In the event of this Court deciding to dismiss this anticipatory bail petition, it will definitely affect the career of the Advocate and disciplinary action can be taken against the Advocate before the Bar Council and a complaint can also be maintained before the Consumer Forum.

6. This Court, in order to protect the Advocate, is accepting the explanation offered and is constrained 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, Madurai, 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 daily at 10:30 a.m. and 6.30 p.m. 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].

sd/-
05/03/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE NO.II
MADURAI
- 2 THE CHIEF JUDICIAL MAGISTRATE
MADURAI DISTRICT
- 3 THE INSPECTOR OF POLICE
UMACHIKULAM POLICE STATION, MADURAI DT,
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.J.JEYAKUMARAN Advocate SR.No.10762

Sm:11.03.2015:2P/6C: