BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Wednesday, the First day of April Two Thousand Fifteen
PRESENT
THE HON`BLE MR JUSTICE P.N.PRAKASH
CRL OP(MD) No.4968 of 2015

RAJENDRAN ... PETITIONER/ACCUSED (SINGLE)

S.ANTONY BIRLA ... INTERVENOR

Vs

THE INSPECTOR OF POLICE
NAZARETH POLICE STATION,
CR.NO. 37 OF 2015, TUTICORIN DISTRICT. ... RESPONDENT/COMPLAINANT

For Petitioner : MR.V.KATHIRVELU, SENIOR COUNSEL
FOR M/S.K.PRABHU Advocate

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

For Intervenor : MR.R.PONKARTHIKEYAN, 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 294(b) and 506 (ii) IPC and Sections 3 and 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest and Ordinance Act, in Crime No.37 of 2015 on the file of the respondent police, seeks anticipatory bail.

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

3. It is the case of the defacto complainant by name Antony Birla that he had borrowed a sum of Rs.5,00,000/- from Rajendran / the petitioner herein sometime in 2012 and as security, he had handed over five blank cheques. According to the defacto complainant he has been regularly paying money towards the principal and interest to the petitioner on various dates both by way of cash and cheque. While so, it is alleged by the defacto complainant that the petitioner has filled in two of the blank cheques as follows:

Cheque No.	*Date*	*Amount*	*Bank & Branch*	*Name*
852435	20.12.2014	Rs.1,00,000/-	Canara Bank, Nazareth Branch	Rajendran
852577	17.01.2015	Rs.10,00,000/-	Canara Bank, Nazareth Branch	Rajendran

and presented the same for clearance. The defacto complainant, anticipating this, had given “Stop Payment Instructions” to his Bank and therefore, the cheques were returned unpaid to the petitioner.

4. The petitioner issued a statutory notice under Section 138 of Negotiable Instruments Act on 27.01.2015 through Advocate Mr.V.Manokaran to the defacto complainant. According to the defacto complainant, this petitioner had handed over another blank cheque bearing No.852580, to the petitioner, who in turn had handed over that cheque to one Joshua, in which the amount has been filled up as Rs.5,00,000/-, date has been filled up as 12.01.2015 and Joshua has put his name as the payer. The said cheque also was dishonored on the ground of "Stop Payment". In respect of this cheque, the said Joshua has issued a statutory notice under Section 138 of N.I. Act on 27.01.2015 through the same Advocate by name Mr.V.Manokaran.

5. After receipt of the statutory notice, the defacto complainant did not reply to the petitioner and instead lodged the present complaint alleging that this petitioner is demanding exorbitant interest for the loan taken by the defacto complainant and hence, the present case has been registered against the petitioner.

6. Mr.V.Kathirvelu, learned Senior Counsel for Mr.K.Prabhu, learned counsel for the petitioner submitted that the petitioner did not charge exorbitant interest as alleged by the defacto complainant and that the petitioner has initiated proceedings under Section 138 of N.I.Act against the defacto complainant for the dishonor of the aforesaid cheques and in order to set up a defense, the defacto complainant is weaving a story, as if the petitioner was charging him exorbitant interest.

7. At the first blush, the arguments of Mr.Kathirvelu, learned Senior Counsel did sound convincing. However, learned counsel for the defacto complainant brought to my notice the Bank Account Statement of the defacto complainant, which clearly shows that the following payments have been made by the defacto complainant to the petitioner through Bank:

Date of Payment	Amount
15.10.2013	1,00,000/-
23.10.2013	92,500/-
06.11.2013	25,000/-
07.01.2014	25,000/-
11.01.2014	1,21,300/-
06.02.2014	25,000/-
06.03.2014	25,000/-
10.03.2014	25,000/-
20.03.2014	35,000/-
06.05.2014	25,000/-
08.07.2014	50,000/-
03.09.2014	4,25,000/-
09.09.2014	25,000/-
13.09.2014	75,000/-
09.10.2014	25,000/-
Total	1,098,800/-

8. In reply to this, Mr.Kathirvelu, learned Senior Counsel for the petitioner produced photocopies of some chits of papers to show that the defacto complainant is running a chit in which the petitioner is a

subscriber and the amounts that were paid to the Bank were only in connection with the chit transaction.

9. I am unable to persuade myself with this submission, because, the copies of some chits of papers do not create confidence in the mind of this Court to draw the inference, which the learned Senior Counsel wants this Court to draw. That apart, in the statutory notice issued by the petitioner on 27.01.2015, it is stated that the defacto complainant had borrowed Rs.11,00,000/- from the petitioner in May, 2014 and that towards the discharge of the loan, he has issued two cheques of Rs.10,00,000/- and Rs.1,00,000/- as stated above. In his statutory notice, there is absolutely no reference to any transaction as projected now.

10. Learned Senior Counsel for the petitioner further submitted that the defacto complainant did not issue any reply notice to the statutory notice dated 27.01.2015 issued by the petitioner.

11. According to the learned counsel for the defacto complainant, instead of issuing a reply notice, the defacto complainant had chosen to file the present complaint, since there are overwhelming materials to show that the petitioner is charging exorbitant interest and that he should be prosecuted under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, the very object of which, is to protect the victims from loan sharks like the petitioner.

12. There appears to be some force in the submission of the learned counsel for the defacto complainant. The statement of account clearly shows that the defacto complainant has been paying money to the petitioner between 15.10.2013 and 09.10.2014. Under such circumstances, the assertion of the petitioner that the defacto complainant had borrowed Rs.11,00,000/- from him in May, 2014 appears to be little improbable, coupled with the fact that this petitioner and his friend Joshua have set up identical cases against the defacto complainant in order to exact money from him.

13. In view of the serious nature of allegations against this petitioner, this Court is not inclined to grant him anticipatory bail. Hence, the Criminal Original Petition is dismissed.

sd/-
01/04/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1. THE INSPECTOR OF POLICE
NAZARETH POLICE STATION,TUTICORIN DISTRICT.

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

+1. CC to M/S.K.PRABHU Advocate SR.No. 16626
+1cc to MR.R.PONKARTHIKEYAN, ADVOCATE IN SR : 16469

SR : 07.04.2015 : 3P/5C

ORDER IN
CRL OP(MD) No.4968 of 2015
Date :01/04/2015