



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

Tuesday, the Seventeenth day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.724 of 2015

1 V.ASHOK KUMAR

2 K.SUBBURAJ

... PETITIONERS / ACCUSED 1 & 2

B.SURULIRAJ

... INTERVENER

Vs

THE STATE REP.BY

1 THE SUPERINTENDENT OF POLICE

DISTRICT CRIME BRANCH, THENI DISTRICT.

2 THE INSPECTOR OF POLICE

DISTRICT CRIME BRANCH, THENI DISTRICT.

CR. NO.8 OF 2015.

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.R.MAHESWARAN Advocate

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

For Intervener : MR.JEYAKUMARAN,ADVOCATE

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

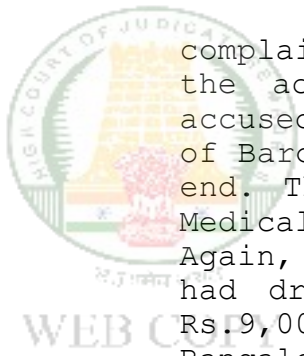
ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 506(i) IPC in Crime No.8 of 2015 on the file of the respondent police, seek anticipatory bail.

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

3. On 09.03.2015, this Court passed the following order:

"2. For the sake of convenience, the parties will be referred to as the "de facto complainant" and "the accused". This case has been registered based on the complaint dated 08.12.2014 given by the defacto complainant to the respondent police. It is the case of the defacto complainant that the accused is his nephew. The defacto complainant wanted medical college admission for his son in Vinayaka Medical College, Salem and therefore, he approached the accused for financial help. The accused gave around Rs.10,00,000/- to the defacto complainant, on 17.04.2014. The defacto complainant was not able to secure admission for his son in Vinayaka Medical College on the ground that the college was demanding a sum of Rs.40,00,000/- which the defacto complainant was not able to mobilize. Therefore, the defacto



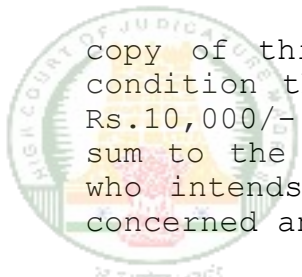
complainant returned a sum of Rs.10,00,000/- with interest to the accused by depositing the same into the account of the accused, on 07.05.2014 and 08.05.2014, in Indian Bank and Bank of Baroda, Bodinayakanur Branch. Thereafter, the matter did not end. The defacto complainant's son wanted admission in Oxford Medical College, Bangalore and therefore, he needed money. Again, he seems to have approached the accused and the accused had drawn two Demand Drafts for a sum of Rs.1,60,000/- and Rs.9,00,000/- in favour of Children Educational Society, Bangalore, which runs the said Medical College. This amount was also given to the defacto complainant for his son's education during August, 2014.

3. It is contended by the learned counsel for the defacto complainant that a sum of Rs.10,60,000/-, which was allegedly given by the accused to the Children Educational Society, Bangalore, is defacto complainant's money, but the amount was deposited in the account of the accused for drawing the two demand drafts. It is relevant to note that the second transaction is dated 02.08.2014. According to the accused, it is the defacto complainant, who has to return the money, which the accused has paid to the defacto complainant on 02.08.2014, as stated above, for getting admission for his son in Oxford Medical College, Bangalore, run by the said Children Educational Society, Bangalore. Therefore, the accused has also filed a complaint against the defacto complainant and based on the direction issued by this Court in CrI.O.P.(MD) No.736 of 2015, a case in Crime No.9 of 2015 has been registered by the police against the defacto complainant. Thus, there is a case and counter case filed by one against the other. It is seen, in the complaint, dated 02.12.2014, given by the defacto complainant, which forms the basis for the case in Crime No. 18 of 2015, absolutely there is no reference about the event that took place in connection with the admission of his son in Oxford Medical College, Bangalore and the payment of money to the tune of Rs.10,60,000/- paid by the accused to the defacto complainant. Therefore, this Court is of the view that it is a fit case to grant Anticipatory Bail to the petitioners. At this juncture, the learned counsel for the defacto complainant seeks adjournment."

4. Learned counsel for the defacto complainant submitted that the transaction relating to Oxford Medical College, Bangalore was not mentioned in the complaint in this case, because the defacto complainant had received the entire money from the Medical College and therefore, the defacto complainant felt that it was not relevant to the present dispute.

5. Learned counsel for the petitioners submitted that from the dates and events relied upon by the learned counsel for the defacto complainant himself, it may be noted that the hunt for medical college admission in Vinayaka Medical College and Oxford Medical College and payment of money in both the colleges were so interconnected that they are not two separate transactions.

6. There appears to be force in the submission of the learned counsel for the petitioners. Under such circumstances, this Court is 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, Theni, 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 daily at 06:30p.m. for two weeks and thereafter 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/-
17/03/2015

/ TRUE COPY /

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

TO

1.THE JUDICIAL MAGISTRATE THENI.

2.DO THRO THE CHIEF JUDICIAL MAGISTRATE, THENI.

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

4.THE SUPERINTENDENT OF POLICE
DISTRICT CRIME BRANCH, THENI DISTRICT.

5.THE INSPECTOR OF POLICE
DISTRICT CRIME RANCH, THENI DISTRICT.

+1. CC to M/S.R.MAHESWARAN Advocate SR.No.12870

+1cc to MR.J.JEYAKUMARAN, ADVOCATE IN SR NO.13447

ORDER
IN
CRL OP(MD) No.724 of 2015
Date :17/03/2015

RG.19.03.2015 3P.8C.