



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

Friday, the Eighth day of January Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.23401 of 2015

GANESAN

... PETITIONER/2nd ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
CENTRAL CRIME BRANCH,
MADURAI,
CRIME NO.82/15.

... RESPONDENT/COMPLAINANT

For Petitioner : M/S K.P.NARAYANAKUMAR Advocate

For Respondent : MR.K.ANBARASAN, Govt. Advocate (Crl. Side)

For Intervenor : M/s.L.GEORGE PAUL ANTO, Advocate

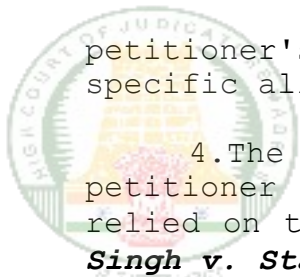
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as accused No.2, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420, 468, 471 of IPC, in Crime No.82 of 2015 on the file of the respondent police and hence, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant and petitioner's son G.Kamalakaran were classmates in B.Tech course at Kalasingam University. After B.Tech, the defacto complainant wanted to pursue his higher studies in Foreign countries. The petitioner's son promised to get admission in "ECOLE" University in France. On the said promise, the defacto complainant paid Rs.27,00,000/- to the petitioner and his son between the period from 03.04.2014 to 03.06.2015. The defacto complainant did not receive any VISA and on the enquiry, the petitioner's son informed the defacto complainant that he got admission in CRINAE University in USA and the defacto complainant received a e-mail to attend verification at American embassy at Mumbai. When the defacto complainant went there to attend the verification, he was informed that the said e-mail is false one. The petitioner and his son met the defacto complainant and his family members on 01.08.2015 and promised to repay the amount on 17.08.2015. The petitioner at that time, threatened the defacto complainant and others with dire consequences that if they give any complaint against him and his wife to higher authorities they have to face the consequences. Subsequently, they did not give any amount and they did not return all the certificates, passport and all other documents of defacto complainant. On the complaint given by the defacto complainant, the case has been registered for the above said offences.

3.The case of the petitioner is that the petitioner is innocent person and he has not committed any offence as alleged by the prosecution
<https://hservices.accounts.gov.in/hservices/> to do with the transaction and he is retired Inspector of Police. When the petitioner filed earlier anticipatory bail, this Court referred the matter before the Mediation and in the Mediation, the



petitioner's son informed that he had repaid a sum of Rs.31,00,000/-. No specific allegation has been made against him.

4.The learned counsel for the petitioner submitted that the petitioner is awarded with Presidential Award and he will not abscond. He relied on the judgment reported in **AIR 1980 Supreme Court 1632 (Gurbaksh Singh v. State of Punjab)**

"31..... A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."

5.The learned counsel for the intervenor submitted that the petitioner and his son on false promise of getting admission for defacto complainant in University of France received a sum of Rs.27,00,000/-, but failed to do so. The petitioner sent false e.mail as though the defacto complainant got admission in CRINAE university, USA and on verification, it was found that the e-mail is a false one. After coming to know this, the petitioner and his son came to the defacto complainant's house and they agree to repay the amount and subsequently, threatened him with dire consequences. If anticipatory bail is granted to the petitioner, he will tamper the witnesses and hamper the investigation.

6.The learned counsel for the intervenor further submitted that when the anticipatory bail filed by the petitioner, this Court referred the matter before the Mediation and this petitioner assured that they will give all the certificates belonged to the defacto complainant and subsequently, he denied and therefore the mediation referred the matter before this Court and this Court directed the petitioner to hand over all the certificates to the defacto complainant within two days. Suppressing that, at the time of mentioning, the petitioner sought permission to withdraw the earlier petition filed by him. On the endorsement made by the learned counsel for the petitioner, the earlier petition for Anticipatory bail was dismissed as withdrawn.

7.The learned Government Advocate (Crl.side) submitted that petitioner and his son cheated the defacto complainant to the tune of Rs.27,00,000/- and petitioner threatened the defacto complainant and others with dire consequences. The investigation is pending. The earlier anticipatory bail petition filed by the petitioner were dismissed. There is no change of circumstances and prayed for dismissal of petition.

8.Considering the charges leveled against the petitioner that the petitioner and his son received a sum of Rs.27,00,000/- from the defacto complainant and cheated him and the petitioner assured the defacto complainant that he will return all the certificates and amount received by the petitioner and his son and subsequently, threatened the defacto complainant, I am not inclined to grant anticipatory bail to the petitioner. Hence, this petition is dismissed.

sd/-

08/01/2016

/ TRUE COPY /



TO

- 1 THE INSPECTOR OF POLICE, CENTRAL CRIME BRANCH, MADURAI
- 2 THE ADDITIONAL PUBLIC PROSECTUOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

WEB COPY

- +1. CC to M/S K.P.NARAYANAKUMAR Advocate SR.No.2188
- +1. CC to M/S L.GEORGE PAUL ANTO Advocate SR.No.1727

AM

CSL/NGM-SS/SAR-II/20.01.2016/3P/5C

ORDER

IN

CRL OP(MD) No.23401 of 2015

Date :08/01/2016