



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

Thursday, the Twenty First day of July Two Thousand Sixteen

PRESENT

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

CRL OP(MD) No.11925 of 2016

1 SURESHKUMAR @ SURESH C.JAIN
2 MAGESHKUMAR

... PETITIONERS/ ACCUSED No.1 & 2

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
PETTAI POLICE STATION,
TIRUNELVELI DISTRICT.
Crime No.432 of 2016

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S N.MOHIDEEN BASHA Advocate

For Respondent : Mr.P.Kannithevan, Govt. Advocate (Crl. Side)

For Intervenor : Mr.A.Thiruvadikumar, Advocate

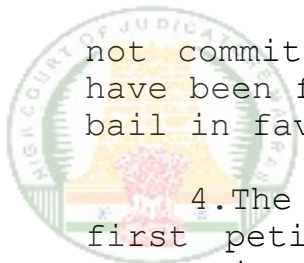
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.1 & 2, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 294(b), 506(ii) and 379 of IPC, in Crime No.432 of 2016, on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that the property is belongs to first petitioner/A1. A1 settled the property on his sister, who is the wife of the defacto complainant. Second petitioner is the son of the first petitioner. The defacto complainant was carrying on business in the name and style of Kushal Polymers at West Pettai, Tirunelveli. A1 was working as Manager with him in the said company. The petitioners removed the machineries and when the same was questioned by the defacto complainant, the petitioners abused him with filthy language and threatened him with dire consequences.

3.The case of the petitioners is that the settlement in favour of the first petitioner's sister/wife of the defacto complainant is sham and nominal and the first petitioner filed O.S.No.2 of 2016 before the III Additional District Court, Tirunelveli on 04.01.2016 for declaration. The petitioners are innocent persons and they have



not committed any offence as alleged by the prosecution and they have been falsely implicated in this case and prays for anticipatory bail in favour of the petitioners.

4.The learned counsel for the intervenor submitted that the first petitioner borrowed money in the Union Bank of India by mortgaging the property. Due to financial strain, he could not repay the amount. The wife of the defacto complainant settled the entire amount due to the Bank and the first petitioner settled the property on his sister. The first petitioner did not have any livelihood, due to that the first petitioner was employed as Manager. In breach of confidence reposed on the first petitioner, the petitioners colluded together and removed the machineries and the petitioners and other accused abused the defacto complainant with filthy language and threatened him with dire consequences and prayed for dismissal of the anticipatory bail.

5.Heard the learned Government Advocate (Crl.Side).

6.Considering the facts and circumstances of the case and also considering the fact that the petitioners and the defacto complainant are close relatives and the first petitioner already filed a suit in O.S.No.2 of 2016 and the same is pending, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, they 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 No.V, Tirunelveli, on condition that each of the petitioners 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

- (i) the petitioners shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.
- (ii)the petitioners shall not tamper with evidence or witness either during investigation or trial.
- (iii)the petitioners shall not abscond either during investigation or trial.
- (iv)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].



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7.The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioners are complying with the conditions or not.

sd/-
21/07/2016

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.V, TIRUNELVELI.
- 2 DO THRO' THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE INSPECTOR OF POLICE, PETTAI POLICE STATION,
TIRUNELVELI DISTRICT.

+1. CC to M/S N.MOHIDEEN BASHA Advocate SR.No.38439

+1cc to M/s.A.Thiruvadi Kumar, Advocate, Sr.No.38609

am

JM/SK-SKN-SAR-I/27.07.2016/3P-7C

ORDER
IN
CRL OP(MD) No.11925 of 2016
Date :21/07/2016