



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

Monday, the Ninth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.12021 of 2017

S. RAFEEQUE AHMED ... PETITIONER / ACCUSED NOT KNOWN

Vs

1 THE STATE REP.BY
THE COMMISSIONER OF POLICE,
TRICHY CITY. ...1st RESPONDENT/ THIRD PARTY

2 M/S.K.M.I.STORE,
REP. BY ITS PROPRIETOR,
MANU GOEL, NO.5-A,
INDUSTRIAL AREA-A EXTENSION,
LUDHIANA, STATE OF PUNJAB. ... 2nd RESPONDENT/ COMPLAINANT

For Petitioner : M/S.S.KARTHICK SUBRAMANIAN Advocate

For Respondent : M/S.K.ANBARASAN, Government Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner / accused no. not known, apprehends arrest at the hands of the respondent police for the offences punishable under Section 138 of Negotiable Instrument Act in Case No.3479 of 2017, on the file of the CJJD Cum JMIC, Ludhiana, State of Punjab, seeks anticipatory bail.

2. The petitioner filed this petition under Section 438 Cr.P.C, who has been accused of non bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, has approached this Court for Anticipatory Bail so as to enable him to approach the appropriate Court for re-calling the warrant issued by the learned CJJD Cum JMIC, Ludhiana.

3. The facts of the case leading to file this petition as follows:

One K.M.I Store, Ludhiana, lodged a complaint against the petitioner, on the file of the learned CJJD Cum JMIC, Ludhiana, alleging that the petitioner has purchased some goods from the above said store for worth of Rs.4,50,000/- with the condition of the



payment will be made only after sale of entire goods to the customers. Then the above said representative frequently visited the shop of the petitioner and insisted to pay the amount. For non-payment of amount, the said K.M.I Store, Ludhiana, lodged a private complaint before the learned CJJD Cum JMIC, Ludhiana.

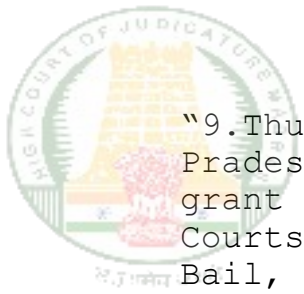
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4. The petitioner is always busy with his business. Hence, he could not able to appear before the Judicial Magistrate Court, Ludhiana. Now the petitioner is ready to settle the matter. The goods' worth is about Rs.4,50,000/-. The petitioner sold only the goods of Rs.1,50,000/- and the rest of the goods remains unsold and with the petitioner only. Now the petitioner is ready to pay Rs.1,50,000/- and also ready to return the goods worth about Rs.3,00,000/- and thereby he wants to settle the matter. Therefore, the petitioner approached this Court under Section 438 Cr.P.C.

5. The issue as to whether, in respect of the person who has been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, came up for consideration before the Division Bench of this Court in the case of S.P.Shanthi Swaroop v. State of Tamil Nadu , rep. By Asst. Commissioner of Police, Central Crime Branch, Madras reported in 1992 L.W.(Cr1).475. After elaborate discussions, decisions and considering the ratio laid down by the Patna High Court in Syed Safrul Hassan v. State has passed the following order,

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the meantime. The reference is answered accordingly."

6. Thereafter, a learned Single Judge of this Court in the case of P.Thangavelu and others v. State, rep. By the Inspector of Police and other reported in 2017 (2) MWN (Cr.) 633 has passed the following orders,



"9. Thus, it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioners for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10. Accordingly, Interim Anticipatory Bail is granted to the Petitioners herein till 01.08.2016. The Petitioners are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

(i) Each of the Petitioners shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, i.e., before 01.08.2016, the petitioners shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

7. In view of the decisions cited supra, I am inclined to grant interim anticipatory bail to the petitioner till 10.11.2017. Accordingly, interim anticipatory bail is granted to the petitioner till 10.11.2017. The petitioner is directed to be enlarged on bail in the event of arrest or on their appearance before the learned CJJD Cum JMJC, Ludhiana and on further condition that:

(i) the Petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;



(ii) within the said period, ie., before 10.11.2017, the petitioners shall appear before the concerned Court of Jurisdiction and file a petition to re-call the warrant before the said Court.

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sd/-
09/10/2017

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

TO

1. THE CJJD CUM JMIC, LUDHIANA,
STATE OF PUNJAB.
2. THE COMMISSIONER OF POLICE,
TRICHY CITY.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.S.KARTHICK SUBRAMANIAN Advocate SR.No.32297

ORDER
IN
CRL OP(MD) No.12021 of 2017
Date :09/10/2017

MS/RR-BS/SAR.1/20.10.2017/4P.5C