



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

Tuesday, the Twenty Seventh day of June Two Thousand Seventeen

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL OP(MD) No.4197 of 2017

1 M.CHANDRAKUMAR
2 KARTHIKEYAN

... PETITIONERS/ACCUSED NO.1 & 2

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
KARUR DISTRICT
CRIME NO. 3 OF 2017

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.R.SREENIVASAN Advocate

For Respondent : MR.A.RAMAR, Additional Public Prosecutor

For Intervenor : M/S.SITHARANJANDASS, Advocate

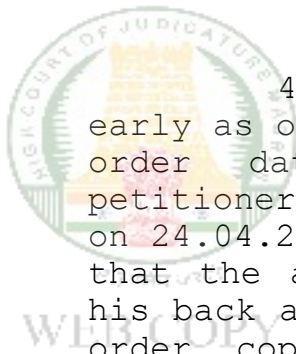
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

Originally, when the matter came up for hearing on 10.04.2017, the matter was referred to Mediation and Conciliation Centre attached to the Madurai Bench of Madras High Court for posting the matter on 13.04.2017 before the mediation. However, the matter was not listed on the said date. Again, it was listed on 19.04.2017 before the mediation and the mediation was conducted and failed and the matter was referred back to the Court on 19.04.2017 and the case was listed on 21.04.2017.

2. On the said date, this Court was pleased to grant anticipatory bail to the petitioners. However, on 24.04.2017, the learned counsel for the intervenor made a mention without filing an intervening petition that when the mediation was pending without disclosing the pendency of the same, the petitioners had obtained anticipatory bail on 21.04.2017.

3. In the light of the oral submission made by the learned counsel appearing for the intervenor, the order dated 21.04.2017 passed by this Court was recalled and again the matter was referred to mediation on 27.04.2017 and again mediation was conducted and it was failed and referred back to the Court.



4. However, the fact remains that the mediation failed as early as on 19.04.2017 itself and consequently, this Court passed an order dated 21.04.2017 granting anticipatory bail to the petitioners. Because of the representation made by the intervener, on 24.04.2017, without filing any intervening petition to the effect that the anticipatory bail was obtained by the petitioners behind his back and the order dated 21.04.2017 came to be recalled and the order copy was also not issued believing the words of the intervener. To sum up, the intervener/ defacto complainant has misled this Court as if the mediation was pending at the time of granting anticipatory bail to the petitioners and consequently, the order passed in favour of the petitioners on 21.04.2017 came to be withdrawn, without issuing the order copy to them.

5. Today, when the afore-said facts was clarified in the Chamber before both the learned counsel and on perusal of the records, as rightly pointed out by the learned counsel for the petitioners, it came to the knowledge of this Court that the submissions made by the learned counsel for the petitioners seem to be true. The learned counsel for the intervener also did not object the factual position involved in this matter. In fact, he fairly submitted that he did not file any intervening petition at the time of granting anticipatory bail to the petitioners on 21.04.2017.

6. In the light of the factual aspect of the matter and considering, the facts and circumstances of the case, the order already passed by this Court on 21.04.2017 holds good and the anticipatory bail is granted to the petitioners is restored back in the following manner:-

"The petitioners, who are arrayed as accused Nos.1 and 2, in Crime No.3 of 2017 on the file of the respondent police, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 506(i) of IPC and hence, seek anticipatory bail.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent/State.

3. The case of the prosecution is that the petitioners had received Rs.51 Lakhs from the defacto complainant and 11 others under the guise of arranging them for government job and thereafter, the petitioners did not do so. Hence, the present complaint.

4. The learned Additional Public Prosecutor on instruction would submit that on enquiry it was found that the first petitioners borrowed a sum of Rs.5 lakhs from the defacto complainant for exorbitant interest of Rs.25,000/- per month for running his business and hence, the first petitioner ought to have preferred a complaint first, but he did not do so.

5. The learned counsel appearing for the petitioners states that the petitioners are innocent and they have nothing to do with the alleged occurrence.



6. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.I, Karur and their executing 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 learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

7. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed."

sd/-

27/06/2017

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, KARUR.
- 2 THE CHIEF JUDICIAL MAGISTRATE, KARUR.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, KARUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.M.R.SREENIVASAN Advocate SR.No.25201

ssm

CSL/PM-PN/SAR-I/29.06.2017 : 3P/6C

ORDER

IN

CRL OP(MD) No.4197 of 2017

Date :27/06/2017