

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty First day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.29542 of 2017

1 DEVAN @ N.PALANISAMY, [PETITIONERS / ACCUSED]
2 LADDU @ M.PALANISAMY,
3 TAMIL @ TAMILARASAN,
4 N.KRISHNAMOORTHY,
5 VENKAT @ M.VENKATACHALAM,

Vs

STATE BY [RESPONDENT]
THE INSPECTOR OF POLICE,
TIRUCHENGODE RURAL POLICE STATION,
TIRUCHENGODE, NAMAKKAL DISTRICT.
CR.NO.694 OF 2017.

For Petitioner : M/S.C.PRAKASAM Advocate

For Respondent : MR. C. IYYAPPA RAJ, Addl. Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest for the alleged offences under Sections 147, 148, 420, 506 (ii) and 379 IPC r/w Section 4 of the Tamil Nadu Prohibition of Exorbitant Interest Act in Crime No.694 of 2017 on the file of the respondent police, seek anticipatory bail.

2. Heard both sides.

3. The case of the prosecution as per the defacto complainant, one D.Mayilsamy is that he had borrowed a sum of Rs.2,10,000/- from the first accused and had repaid an amount of Rs.3,58,000/- towards principal and interest and had asked for return of the bond paper from the first accused. However, the first accused has told him that only after paying a sum of Rs.5,00,000/-, the bond paper would be return back to him. While so, on 31.03.2016 the first accused had locked the house of the

defacto complainant and upon the intervention of the police officials, the lock was broke open and the complainant went inside the house and thereafter, the defacto complainant fearing the accused left the village itself and went to his mother-in-law's house at Karur. Once again the accused had broke open the house and committed theft of the articles.

4. The learned counsel for the accused / petitioners would submit that the defacto complainant had borrowed money from the petitioners and had mortgaged his property in favour of the petitioners and evaded to pay the amount, thereby the second petitioner had filed a suit in O.S.No.281 of 2017 against the defacto complainant before the District Munsif Court, Tiruchengode and the same is pending and while so in order to evade payment the defacto complainant had given the false complaint.

5. The learned Additional Public Prosecutor submitted that there is a civil dispute pending between the petitioners and the defacto complainant.

6. Taking into consideration the submissions made, more particularly, that the defacto complainant had borrowed money from the petitioners and had mortgaged his property in favour of the petitioners and evaded to pay the amount, thereby the second petitioner had filed a suit in O.S.No.281 of 2017 against the defacto complainant before the District Munsif Court, Tiruchengode and also taking into consideration the facts of the case of the case, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions.

7. (i) Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Tiruchengode, Namakkal District within a period of 15 days from the date of receipt of a copy of this order, on each of them 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.

[a] if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
21/02/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF COURT
TIRUCHENGODE

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE BY
THE INSPECTOR OF POLICE, TIRUCHENGODE RURAL
POLICE STATION, TIRUCHENGODE, NAMAKKAL DISTRICT.

5 THE JUDICIAL MAGISTRATE,
TIRUCHENGODE, NAMAKKAL DISTRICT

+1 CC to M/S.C.PRAKASAM Advocate on payment of necessary charges Sr.No.3714

CRL OP.29542/2017

Date :21/02/2018

MD: 26/02/2018