

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Third day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.27892 of 2018

1 PRABHAVATHI
2 MURUGESAN

[PETITIONERS / ACCUSED]

Vs

STATE REP. BY ITS [RESPONDENT]
THE INSPECTOR OF POLICE,
VENNANDHUR POLICE STATION,
NAMAKKAL DISTRICT.
(CR.NO.472/2018)

For Petitioner : M/S.S.KUMARESAN Advocate

For Respondent : M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 420 & 506(i) IPC in Crime No.472 of 2018, seek anticipatory bail.

2. The case of the prosecution is that the petitioners along with A1 borrowed a sum of Rs.3,30,000/- from the defacto complainant for their business and cheated her. Hence, the defacto complainant lodged a complaint before the respondent police.

3. The learned counsel appearing for the petitioners would submit that the A1 and 1st petitioner are husband and wife, the 2nd petitioner is the father of the 1st petitioner. The 1st petitioner and her husband are living separately for the past six years and it is evident from the school transfer certificate of the 1st petitioner's daughter and both of them are under the care and custody of 2nd petitioner. Even as per the FIR, the entire facts are civil in dispute, instead of filing suit for recovery of money before the civil Court the defacto complainant under the influence made the respondent to register the FIR. Further the 1st petitioner could not file divorce application, since whereabouts of the husband (A1) could not be traced out. The petitioners did not borrowed any amount as alleged in the FIR and never signed any papers to the alleged amount as stated by the defacto complainant. The petitioners are ready to deposit a sum of Rs.1,50,000/- to the

credit of Crime No.472 of 2018. Further the 2nd petitioner is senior citizen and hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioners are borrowed a sum of Rs.3,30,000/- from the defacto complainant. After receiving the said amount, they filed I.P.No.7 of 2013 before the learned Sub-Court, Rasipuram, to declare them as insolvent and the same was dismissed on 03.01.2018. Hence she vehemently opposed to grant anticipatory bail to the petitioners.

5. Considering the above facts and circumstances that the dispute is civil in nature, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are directed to deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) to the credit of Crime No.472 of 2018, within a period of two weeks from the date on which the order copy made ready, and on such deposit the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate, Rasipuram, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) to the credit of Crime No.472 of 2018, before the concerned Magistrate, within a period of two weeks from the date on which the order copy made ready.

[c] the final order in respect of the said deposit shall be passed by the learned trial Judge at conclusion of trial.

[d] the petitioners shall report before the respondent police as and when required.

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

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

[g] 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]**.

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

-sd/-
03/12/2018

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 JUDICIAL MAGISTRATE,
RASIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
VENNANDHUR POLICE STATION,
NAMAKKAL DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.S.KUMARESAN Advocate on payment of necessary charges in SR.NO. 23048

CRL OP.27892/2018

Date :03/12/2018

MLT-07/12/2018

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