



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

Friday, the Fifth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.139 of 2018

1 DHARMALINGAM
2 VIJAYAKUMAR
3 PANNEER SELVAM @ KUTTIYAN
4 TAMIL SELVI

... PETITIONERS / ACCUSED
A1,A3 TO A5

Vs

THE STATE REP.,BY
THE INSPECTOR OF POLICE
BOOTHAPANDI POLICE STATION,
KANYAKUMARI DISTRICT
(CRIME NO.372/2017)

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.M.P.SENTHIL Advocate

For Respondent : MR.K.S.DURAI PANDIAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused No.1, 3 to 5, apprehend arrest at the hands of the respondent Police for the offence punishable under Sections 406, 420, 294(b), 506(i) of IPC, registered in Crime No.372 of 2017 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that since the 1st petitioner insisted the defacto complainant to sell her property and give money to the 2nd accused. Believing the words of the 1st petitioner, the defacto complainant sold the property for Rs.14 lakhs and gave the money to the 2nd accused under the direction of the 1st petitioner. After getting the money, the 2nd accused gave interest for few months, thereafter the 2nd accused had not given any interest. The defacto complainant approached the 2nd accused to return the money, but he refused to do so. Hence a complaint was lodged before the respondent/ police.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they



have been falsely implicated in this case. He further submitted that the petitioners have not committed any offence as alleged by the prosecution. Only due to previous enmity, the defacto complainant has lodged this false complaint and hence, he pleads for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor submitted that investigation is still pending.

5.Submissions made by either side considered. According to prosecution, part of the investigation is completed. Now, considering the averments made in the FIR, no specific overt act is attributed against the 2nd and 4th petitioner. On a whole reading of the FIR discloses, that the first petitioner herein and the accused No.2 had received money and also they obtained signature from the defacto complainant. So custodial interrogation of those alone enough for completing investigation.

6.Taking all the above said aspects into consideration, and having regard to the nature of offence, **this Court comes to a conclusion that for completing the investigation custodial interrogation of the 2nd to 4th petitioners is not necessary. Therefore, considering the facts and circumstances of this case, this Court is inclined to grant anticipatory bail to the petitioners 2 to 4, subject to the following conditions:-**

(ii)The petitioners 2 to 4 are granted anticipatory bail in the event of their arrest or on their surrender before the learned Judicial Magistrate, Boothapandi on or before 19.01.2018, failing which this petition is dismissed automatically.

(iii)On such arrest or surrender, the petitioners 2 to 4 are ordered to be enlarged on bail on their executing a bond for Rs.25,000/- with two sureties for like sum each to satisfaction of the learned Judicial Magistrate, Boothapandi.

(iv)The petitioners 2 to 4 are directed to appear before the respondent Police daily at 10.00 a.m. for a period of four weeks.

(v)The petitioners 2 to 4 shall make themselves available for interrogation as and when required by the Investigation Officer.

(vi) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioners 2 to 4 shall stand automatically cancelled, and 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 petitioner 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)***.

7. In respect of the first petitioner, this petition is dismissed.

sd/-
05/01/2018

/ TRUE COPY /

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

tm/lis

TO

- 1 THE JUDICIAL MAGISTRATE, BOOTHAPANDI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT NAGERCOIL
- 3 THE INSPECTOR OF POLICE
BOOTHAPANDI POLICE STATION, KANYAKUMARI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.M.P.SENTHIL Advocate SR.No.241

GJM/CM/VR/SAR-2-10.1.18-3P-6C

ORDER
IN
CRL OP(MD) No.139 of 2018
Date :05/01/2018