



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

Wednesday, the Fourteenth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.1525 of 2018

JAMAL MOIDEEN

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
K.K.NAGAR POLICE STATION,
TRICHY DISTRICT
(CRIME NO.27/2018)

... RESPONDENT / COMPLAINANT

K.THAMEEMUL ANSARI @ K.ANSAARI

... PETITIONER / INTERVENER /
DEFACTO COMPLAINANT

For Petitioner : M/S.K.P.NARAYANA KUMAR Advocate

For Respondent : MR.A.ROBINSON Govt. Advocate (Crl. Side)

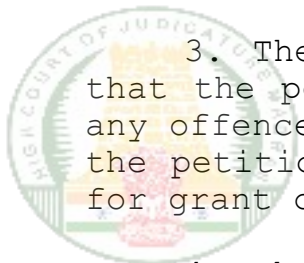
For Intervener : MR.S.VIJAY ANANTH Advocate

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

ORDER : The Court Made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420, 294(b) and 506(i) of IPC., in Crime No.27 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner herein after making false promise, received a sum of Rs.5,25,000/- from the defacto complainant for getting the building approval. Thereafter, he could not keep his promise and when the defacto complainant questioned the same, the petitioner issued a cheque for Rs.5,25,000/- bearing Serial No.232902, dated 07.06.2017 drawn on Punjab National Bank, Cantonment Branch, Trichy in favour of the defacto complainant. Subsequently, when the petitioner presented the cheque for encashment, the said cheque has been dishonoured. So, the defacto complainant asked to return the said amount, for which the petitioner herein threatened him by using filthy language. Hence, the present case has been registered against the petitioner for the above said crime.



3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner has been falsely implicated in this case and pleads for grant of anticipatory bail to the petitioner.

4. The learned counsel appearing for the intervenor submitted that the petitioner herein after making false promise received a sum of Rs.5,25,000/- for getting building approval. Thereafter he could not keep his promise and for the return of the said amount he issued a cheque bearing Serial No.232902, dated 07.06.2017, for the said amount, when the defacto complainant presented the cheque for encashment, the said cheque has been dishonoured. Further, when the same was questioned by the defacto complainant, the petitioner herein made a life threat the defacto complainant and abused him using filthy language. Hence, he prays for dismissal of the anticipatory bail petition.

5. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that the dispute between the petitioner and the defacto complainant appears to be civil in nature. He further submitted that the investigation is going on.

6. The submissions made by the learned counsels appearing for either side are considered. It is alleged that during the time of occurrence, the petitioner herein after making false promise for getting building approval received a sum of Rs.5,25,000/- from the defacto complainant. After receiving the said amount, promise made by the petitioner was not fulfilled. Thereby, the petitioner herein issued a cheque bearing Serial No.232902 dated 07.06.2017, for a sum of Rs.5,25,000/-, and when the defacto complainant presented the cheque for encashment, unfortunately, the said cheque has been dishonoured. Thereby, the defacto complainant lodged this complaint against the petitioner. On the other hand, on go through the submission made by the learned counsel appearing for the petitioner, it is to be noted that the very same defacto complainant filed a case against the petitioner herein as per the provisions under Section 138 of Negotiable Instruments Act, in which he alleged that the same cheque bearing the above mentioned serial number was issued by the petitioner for a loan availed by him. So, the contradiction arises in the allegation clearly makes doubt over the case of the prosecution. Further, since the evidence to be collected in this case are all in the form of documents, custodial interrogation may not be necessary for completing the investigation. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate No.II, Trichy, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:



(i) the petitioner shall report before the respondent police daily at 10.00 a.m., until further orders;

(ii) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(iii) the petitioner shall not abscond either during investigation or trial;

(iv) on breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioner shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the 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].

sd/-
14/02/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3 THE INSPECTOR OF POLICE
K.K.NAGAR POLICE STATION, TRICHY DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.K.P.NARAYANA KUMAR Advocate SR.No.2461
+1. CC to M/S.A.AMAL ANTONY Advocate SR.No.2658

ORDER
IN
CRL OP(MD) No.1525 of 2018
Date :14/02/2018