



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

Friday, the Second day of February Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.1641 of 2018

S.SRINIVASAN,

... PETITIONER/ACCUSED

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
THALLAKULAM POLICE STATION,
THALLAKULAM, MADURAI
(IN CRIME NO.1881/2017)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.SARAVANAN Advocate

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

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

ORDER : The Court Made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 417, 418, 419 and 420 I.P.C., in Crime No.1881 of 2017, on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution the petitioner approached one Asayan, who is having an Air condition Shop in the name and Style of 'ACC Air Condition' for purchasing the A.C. Machine. The petitioner paid a sum of Rs.5,00,000/- as advance by way of cheque to Asayan. Though the said Asayan got the huge sum of Rs.5,00,000/-, he has not supplied the necessary Air Condition Machine to the petitioner. Due to that, there was a dispute arose between the petitioner and Asayan. In these circumstances, the petitioner is not aware of the transactions prevailing between the Asayan and the defacto complainant, namely one J.Syed. Under such circumstances, having ill intention and motive, the defacto complainant lodged a complaint before the respondent police.

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



4.The learned Government Advocate(Criminal Side) appearing for the respondent police submitted that totally there are two accused in this case. This petitioner purchased the A.C. Machine from the defacto complainant, who is supplying the A.C. Machines to the customer and the A.C. Machine which was involved in the occurrence, is worth about 7,25,472/-. So far the petitioner has not given a sum of Rs.3,25,472/- to the defacto complainant. According to him, investigation is still pending.

5.Upon considering the arguments advanced by either side, it disclose that during the time of occurrence, the petitioner placed the order for installing A.C.Machine, in which, he paid a sum of Rs.5,00,000/- to the defacto complainant. Thereafter, some dispute arose between the petitioner and the defacto complainant, for which, on 17.05.2017, one Asayan executed an undertaking letter, in which, he admitted the entire transaction made between him and the petitioner. He only assured that he has not given one A.C. Machine for the amount received in earlier. Thereafter, on 07.10.2017, the defacto complainant lodged a private complaint before the Judicial Magistrate against the petitioner herein. Thereby, as per order passed by the Concerned Magistrate under Section 156(3) Cr.P.C., this case has been registered. So, the real dispute arose due to the breach of contract. Therefore, considering the nature of offence committed by the petitioner, custodial interrogation of the petitioner is not necessary for completing the investigation, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, he 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 of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Madurai, 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.

(i) 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 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].

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02/02/2018

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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, MADURAI
 - 2 THE CHIEF JUDICIAL MAGISTRATE
MADURAI
 - 3 THE INSPECTOR OF POLICE,
THALLAKULAM POLICE STATION,
THALLAKULAM, MADURAI
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI
- +1. CC to M/S.R.SARAVANAN Advocate SR.No.1851

ORDER
IN
CRL OP(MD) No.1641 of 2018
Date :02/02/2018

SMA/RR-CSL/SAR-4/12.02.2018:3P/6c