



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

Tuesday, the Twenty Seventh day of February Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.2540 of 2018

1 S. MAGESWARAN,
2 L. SHANMUGAVEL,
3 R. RAHINI,

... PETITIONERS/ACCUSED No.1,4 & 5

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TRICHY CITY.
CRIME NO.48 OF 2017

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.K.BAALASUNDHARAM 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 petitioners/A1, A4 & A5, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420, 294(b) and 506(i) of I.P.C., r/w. Section 10 of Emigration Act,1983, in Crime No.48 of 2017, seek anticipatory bail.

2. The case of the prosecution is that the petitioners, by giving false promise to secure a job for the defacto complainant at Canada, received a sum of Rs.10,00,000/- from the defacto complainant. But, instead of that the petitioners sent the defacto complainant to the country of Ecuador. After six months, the defacto complainant returned from Ecuador and approached the petitioners for return of money, at that time, the accused persons did not return the money, thereby, abused him by using filthy language and made a life threat to him. Hence, the case has been registered for the above said offences.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, they are no way connected with the offence, as alleged by the prosecution. He further submitted that one Baskelbose, who is in Ecuador directed the defacto complainant through e-mail to contact the first petitioner for arranging the job in Canada, thereby, the amount was



sent to the said Baskelbose and he did not act bonafidely. Hence, the petitioners have nothing to do with sending the persons to foreign countries and prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that the amount was not recovered and the investigation is at the initial stage.

5. The submissions made by the learned counsel appearing for either side are considered. It is alleged that during the time of occurrence, the first petitioner being the owner of the "Prayon Abroad Services", after promising that he has to arrange to send the defacto complainant to Canada for business activities, received a sum of Rs.10,00,000/- from the defacto complainant. Subsequently, on 26.09.2015, the first petitioner herein made arrangement to send the defacto complainant and two others to the country of Ecuador instead of Canada. Thereby, the defacto complainant settled in Ecuador nearly six months and returned back to India. According to the averments made in the FIR, the first petitioner alone received the entire amount, as of now, the investigation is at the initial stage. So, custodial interrogation of the first petitioner is necessary for completing the investigation. Hence, this Court is not inclined to grant anticipatory bail to the first petitioner. **Therefore, this Criminal Original Petition is dismissed as against the first petitioner.**

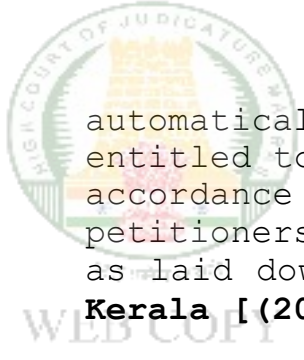
6. Having regard to the second and third petitioners, there is no specific overtact against them. Thereby, this Court is inclined to grant anticipatory bail to the second and third petitioners alone. Accordingly, the petitioners 2 & 3 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Aruppukottai, Virudhunagar District, on condition that each of the petitioners 2 & 3 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 to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) the petitioners 2 & 3 shall report before the Aruppukottai Town Police Station, daily at 10.00 a.m., until further orders;

(ii) the petitioners 2 & 3 shall not tamper with evidence or witness either during investigation or trial;

(iii) the petitioners 2 & 3 shall not abscond either during investigation or trial;

(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioners 2 & 3 shall stand



automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners 2 & 3 in accordance with law as if the conditions have been imposed and the petitioners 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/-
27/02/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE,
ARUPPUKOTTAI, VIRUDHUNAGAR DISTRICT
 - 2 THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT
 - 3 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TRICHY CITY.
 - 4 THE INSPECTOR OF POLICE, ARUPPUKOTTAI TOWN POLICE STATION,
ARUPPUKOTTAI
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI
- +1. CC to M/S.K.BAALASUNDHARAM Advocate SR.No.3151

ORDER
IN
CRL OP(MD) No.2540 of 2018
Date :27/02/2018

SMA/CSL/SAR-3/07.03.2018:3P/7C