



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

Thursday, the Eighth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.3629 of 2018

1 KATHAR MYDEEN
2 SAHUL HAMEED

... PETITIONERS / ACCUSED 1& 2

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
KADAIYANALLUR POLICE STATION,
KADAIYANALLUR,
TIRUNELVELI DISTRICT.
IN CR.NO. 212/2017

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.V.ANGUSAMY Advocate

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

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused nos.1 and 2, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 of IPC, in Crime No.212 of 2017, seek anticipatory bail.

2.The case of the prosecution is that due to difference of opinion arose between the petitioners and the defacto complainant among the partnership, the defacto complainant sought to return his investment made in the partnership, but, the petitioners refused to repay the same. Thus, on complaint, a case has been registered against the petitioners.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they did not commit any offence as alleged by the prosecution and their names have been falsely implicated in this case.

4.The learned Government Advocate (Criminal Side) would submit that the investigation of the case is pending.



5. The submissions made by the learned counsel appearing on either side are considered.

6. It is alleged, during the time of occurrence, in order to start a travel agency, the defacto complainant handed over a sum of Rs.10,25,000/- to the petitioners herein. Thereafter, the said amount was not repaid by the petitioners herein. On the other hand, on going through documents submitted by the petitioners, it reveals that in the year 2001 itself, the first petitioner herein and the defacto complainant started a partnership firm, in which, the second petitioner was included as a partner in the year 2013. During the course of discussion, there was a dispute arose between the petitioners and the defacto complainant, for which, the second petitioner herein filed a suit before the Sub Court, Thenkasi, seeking a relief of dissolution of partnership and for rendition of accounts. The complaint lodged by the defacto complainant did not disclose entire facts. Since the petitioners and the defacto complainant are the partners, the evidence to be collected for completing the investigation, which are all available in the form of documents. Hence, the custodial interrogation of the petitioners may not be necessary for completing the investigation.

7. Accordingly, the petitioners 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, Thenkasi, Thirunelveli District on condition that each of the petitioners 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 petitioners shall appear before the respondent Police daily 10.00 a.m. until further orders.

(ii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iii) the petitioners shall not abscond either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioners shall stand automatically cancelled and the learned Magistrate/Trial Court shall 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]**.

sd/-
08/03/2018

WEB COPY / TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE
THENKASI, TIRUNELVELI DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT
- 3 THE INSPECTOR OF POLICE
KADAIYANALLUR POLICE STATION, KADAIYANALLUR,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.ANGUSAMY Advocate SR.No.3705

TRP
GJM/RR/CSL/SAR-4/19.3.18-3P-6C

ORDER
IN
CRL OP(MD) No.3629 of 2018
Date :08/03/2018