



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

Monday, the Nineteenth day of March Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.3736 of 2018

LINGASAMY,

... PETITIONER/ACCUSED No.1

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
PASUVANTHANAI POLICE STATION,
THOOTHUKUDI DISTRICT.
(IN CRIME NO.10 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.D.R.MURUGESAN 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 No.1, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 323, 448 and 506(ii) IPC., and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, in Crime No.10 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant borrowed loan for a sum of Rs.5,00,000/- from the petitioner for running his textile business, at that time, he executed a sale deed in favour of the petitioner as security, in terms that when the defacto complainant repay the said amount, the petitioner have to return the property to the defacto complainant. Thereafter, the defacto complainant repaid the said amount and requested the petitioner to return the said property, due to which, on 05.02.2018, the petitioner and other accused trespassed into the defacto complainant's textile shop, demanded him more interest and assaulted him by using wooden log, thereby, the defacto complainant sustained injuries. Hence, the present case has been registered against the petitioner and other accused.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the alleged offence. He further submitted that one Kanagu



executed a sale deed on 02.12.2015 in respect of his immovable property for valuable consideration of Rs.2,50,000/- and the same has been registered. Now, the defacto complainant falsely stated that on receipt of Rs.5,00,000/-, the sale deed was executed by him. He further added that the petitioner has been falsely implicated in this case. Hence, he pleads for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondents submitted that the investigation is still pending.

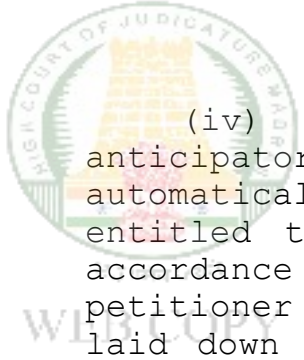
6. The submissions made by the learned counsels appearing for either side are considered. It is alleged that during the time of alleged occurrence, in order to run a textile business, the defacto complainant availed a loan for a sum of Rs.5,00,000/- from the petitioner after executing a sale deed. As of now, after repaying the above said loan, the petitioner herein has not returned the property, as agreed at the time of giving loan. Factually, either the defacto complainant or the accused had not submitted any documents with regard to the property mentioned by the defacto complainant, which has to be returned after repaying the loan. As per the case of prosecution, the property which was mentioned by the defacto complainant was already sold out to the petitioner herein on 02.12.2015 for Rs.2,50,000/- by one Kanagu. So, we cannot come to the conclusion that the said sale deed is executed only for the purpose of availing loan. Moreover, today, when the matter is taken up for hearing, the petitioner herein filed an affidavit in which, he stated that there is no loan transaction between himself and the defacto complainant. Thereby, considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner first petitioner with certain conditions. Accordingly, the 1st 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, Kovilpatti, Thoothukudi District, 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 10.30 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;

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(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/-
19/03/2018

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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, KOVILPATTI, THOOTHUKUDI DISTRICT
- 2 THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI DISTRICT
- 3 THE INSPECTOR OF POLICE,
PASUVANTHANAI POLICE STATION,
THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. CC to M/S.D.R.MURUGESAN Advocate SR.No.56102

ORDER
IN
CRL OP(MD) No.3736 of 2018
Date :19/03/2018

SMA/PN/SAR-1/22.03.2018:3P/6C