



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

Monday, the Eighth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.18014 of 2017

1 PUGAL
2 SAROJA

... PETITIONER/ACCUSED No.1&2

Vs

1 THE STATE REP.BY,
THE INSPECTOR OF POLICE,
SOUTH POLICE STATION,
THOOTHUKUDI
(CRIME NO. 935 OF 2017)

...RESPONDENT/COMPLAINANT

2 JESURAJ

... 2nd RESPONDENT/COMPLAINANT

For Petitioners : M/S.P. MANI ANANDH Advocate

For Respondents : M/S.S.BHARATHI, Government Advocate (Crl.Side)

For Intervenor : M/S.K.SIVABALAN, Advocate

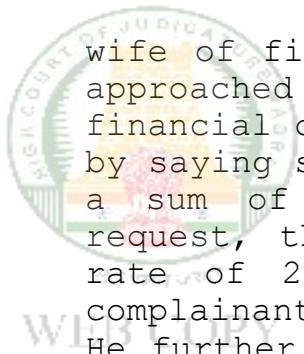
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent Police for the offence punishable under Sections 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and Section 506(ii) I.P.C., in Crime No.935 of 2017, on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant borrowed a sum of Rs.25,00,000/- as loan from A1 for his daughter's marriage by mortgaging his property and also gave few unfilled cheques and a promissory note to A1. Thereafter, the defacto complainant paying monthly interest to A1 properly. In spite of it, A1 demanded exorbitant interest from the defacto complainant and also threatened him to transfer the above property in his favour. Thereby, the defacto complainant lodged a complaint before the respondent police against the petitioners.

3.The learned counsel appearing for the petitioners submitted that first petitioner/A1 running a registered finance company in the name and style of Poove Finance and the second petitioner/A2, is the

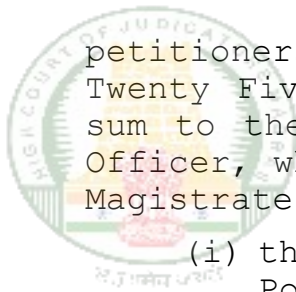


wife of first petitioner. In this context, the defacto complainant approached the petitioners and stated that he is in stringent financial condition and he has arranged marriage to his daughter and by saying so, he requested the first petitioner to extend a loan for a sum of Rs.25,00,000/-. Considering the defacto complainant's request, the first petitioner gave a sum of Rs.25,00,000/- at the rate of 2% per month. Having received the amount, the defacto complainant neither paid the interest nor paid the principal amount. He further submitted that the defacto complainant with an intention to escape from repaying the above loan amount, lodged the complaint with some foisted allegation. Hence he prays for anticipatory bail.

4. The learned counsel appearing for the intervenor submitted that the defacto complainant due to some financial stragulations and due to his daughter's marriage, he approached the first petitioner for a loan to the tune of Rs.25,00,000/-. In turn, the first petitioner forced the defacto complainant to execute a equitable mortgage deed in favour of the second petitioner. Thereafter the defacto complainant was paid Rs.20,00,000/- through first petitioner's cheque and after that the first petitioner issued another cheque to the tune of Rs.4,50,000/- on 24.11.2014, but the said cheque was dishonored, due to the signature mismatch. He further submitted that the defacto complainant paid Rs.1,00,000/- as interest for every month. In this juncture, the first petitioner in order to snatch the property, they forced the defacto complaint by demanding the exorbitant interest or insisted to execute the sale deed in favour of the second petitioner. Hence, he vehemently opposed to grant anticipatory bail to the petitioners/A1 and A2.

5.The learned Government Advocate (Criminal Side) submitted that the defacto complainant borrowed a sum of Rs.25,00,000/- from the first petitioner by way of loan after mortgaging his property. investigation is not completed.

6.The submissions made by the learned counsel on either side are considered. Now the learned counsel for the petitioners stated that as per the mortgage deed dated 24.11.2014, the defacto complainant borrowed a sum of Rs.25,00,000/- from the first petitioner by way of loan by mortgage his property. This complaint was given only after mortgaging the property. The defacto complainant who is the second respondent, admitted that the transaction was happened between them by using the cheques, which was signed by the defacto complainant. According to the prosecution of the case, the entire averments made in the F.I.R clearly shows that the loan of transaction was happened by mortgaging his property and issuing cheques. So demanding Exorbitant interest has to be verified only during the time of investigation or trial. Therefore, transaction was made based on the documents. Hence, custodial interrogation is not necessary for completing the investigation. Therefore, for the reasons stated above, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, they 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 No.I, Thoothukudi, on condition that each of the



petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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 report before the respondent Police daily at 10.00 a.m. until further orders.
- (iii) the petitioners shall not tamper with evidence or witness either during investigation or trial.
- (iv) the petitioners shall not abscond either during investigation or trial.
- (v) 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 is entitled to 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/-
08/01/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.1, THOOTHUKUDI
- 2 THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI
- 3 THE INSPECTOR OF POLICE,
SOUTH POLICE STATION, THOOTHUKUDI
- 4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.P. MANI ANANDH Advocate SR.No.295
+1. CC to M/S.K.SIVABALAN, Advocate SR.No.286

ORDER
IN
CRL OP(MD) No.18014 of 2017
Date :08/01/2018

PK/VR/SAR-4/18.01.2018 : 3P/7C