



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

Tuesday, the Ninth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.18057 of 2017

PANDI SELVI

... PETITIONER/SECOND ACCUSED

Vs

1 THE STATE REP.BY,
THE INSPECTOR OF POLICE
NAGAMALAI PUDHUKOTTAI POLICE STATION,
MADURAI, MADURAI DISTRICT
(CRIME NO. 48/2015)

... 1st RESPONDENT/COMPLAINANT

2 KARUPPASAMY

... RESPONDENT/DEFACTO COMPLAINANT

For Petitioner : M/S.V.S.KISHOK KUMAR Advocate

For Respondent 1 : M/S.S.BHARATHI Govt. Advocate (Crl. Side)

For Respondent 2 : M/S.B.JANARTH KUMAR Advocate

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

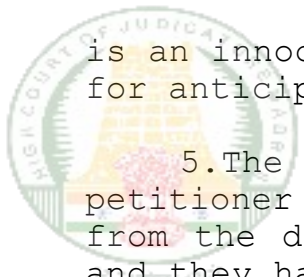
ORDER : The Court Made the following order :-

Heard both sides.

2.The petitioner is arrayed as accused no.2, in Crime No.48 of 2015 on the file of the respondent police. He apprehends arrest at the hands of the respondent police for the alleged offences under Sections 420 and 506(i) I.P.C., he has filed this petition, seeking relief to grant of anticipatory bail.

3.The case of the prosecution is that the petitioner's husband obtained a vehicle loan from the defacto complainant company, namely, Equitas Finance Private Limited in the year 2014, for which, the petitioner herein acted as a guarantor. In the year 2015, the petitioner's husband has failed to repay the loan amount or returned the vehicle for further inspection and he attempted to surrender an old vehicle by altering its chase and register number. Aggrieved by the same, the defacto complainant demanded to repay vehicle loan and gave a complaint before the respondent police.

4.The learned counsel appearing for the petitioner submitted that the excepting a single line that the petitioner acted as a guarantor, there is nothing stated against the petitioner to involve him in the criminal offence. He further submitted that petitioner



is an innocent person and he has not committed any offence and prays for anticipatory bail in favour of the petitioner.

5. The learned Government Advocate (Crl.side) submitted that the petitioner along with her husband obtained loan of Rs.5,80,000/- from the defacto complainant and they have parted with that amount and they have not repaid the amount in a single installment and they are criminally conspired. Subsequently, they are voluntarily surrendered with the vehicle on 10.01.2015 wherein, the vehicle belongs to some other vehicle by altering its chase and register number. Further, he opposed to grant anticipatory bail to the petitioner.

6. The learned counsel appearing for the second respondent fairly submitted that so far surrender is not accepted.

7. The submissions made by either side are considered. The case has been registered under Sections 420 and 506(i) I.P.C against the petitioner. On going through the facts of the case, the husband of the petitioner has availed loan from the defacto complainant for purchasing lorry. The loan was availed by the husband of the petitioner after the execution of a hypothecation agreement. The petitioner herein stood as a guarantor. Now the allegation levelled by the second respondent is that the petitioner and his husband tried to surrender the vehicle, which is not purchased as per the hypothecation agreement. In the above circumstances, the second respondent is having sufficient materials and also having right to file a Civil Suit before the appropriate forum for collecting loan amount for the offence under Section 420 Intension is necessary for constituting the offence. In this case, no document is available to establish that the petitioner is having Intension.

8. Taking all the above said aspects into consideration and having regard to the nature of offence, this Court comes to the conclusion that in order to complete the investigation, custodial interrogation is not necessary. Accordingly, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, they are 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.VI, 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. for a period of one month and thereafter as and when required for the interrogation'
- (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 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/-

09/01/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.VI, MADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
NAGAMALAI PUDHUKOTTAI POLICE STATION,
MADURAI, MADURAI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.S.KISHOK KUMAR Advocate SR.No.400
+1. CC to M/S.B.JANARTH KUMAR Advocate SR.No.41677

ORDER

IN

CRL OP(MD) No.18057 of 2017

Date :09/01/2018

MKV-KK-SAR 4/11.1.2018/3P-7C