



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

Wednesday, the Twenty Eighth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.18649 of 2018

M. SIVAMANI

... PETITIONER /SOLE ACCUSED

Vs

STATE, REPRESENTED BY,
THE INSPECTOR OF POLICE,
PALANI TALUK POLICE STATION, PALANI,
DINDIGUL DISTRICT.
CRIME NO.26 of 2018

... RESPONDENT / COMPLAINANT

POOMALAI KAKKANJI

... INTERVENER/PETITIONER
IN CRL MP(MD) No. 9770 of 2018
IN CRL OP(MD) No. 18649 of 2018

For Petitioner : MR.A.THIRUVADI KUMAR Advocate

For Respondent : MR.S.CHANDRASEKAR, ADDITIONAL PUBLIC PROSECUTOR

For Intervener : MR.K.SAFAR BADHUSAHA, Advocate
IN CRL MP(MD) No. 9770 of 2018
IN CRL OP(MD) No. 18649 of 2018

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 465, 467, 468 and 471 IPC in Crime No.26 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is running a chit in the name of Sri Aakrushana Chits India Private Limited. The defacto complainant is one of the subscriber to the Chit. The defacto complainant is known to the petitioner. The defacto complainant for urgent needs had received a loan of Rs.3,00,000/- on 04.09.2016. In repayment of the loan, she had



issued a cheque bearing cheque No.398540 dated 07.11.2016 drawn in the State Bank of India. When the said cheque was presented for encashment, the same was returned as 'insufficient fund'. Thereafter, the petitioner has issued a notice to the defacto complainant and then the petitioner instituted a private complaint in C.C.No.53 of 2017 before the learned Judicial Magistrate, Palani.

3. Thereafter, summons were sent from the Court to the defacto complainant. On receipt of the summons, the defacto complainant lodged a complaint with the respondent on 28.01.2018 against the petitioner and against one Subash, Mahalakshmi Jewellery, the State Bank of India, the Indian Bank, Palani and the Axis Bank. It is specifically stated in the complaint that Subash is the long time Personal Assistance of the defacto complainant and he has been interested with transaction to be done on behalf of the defacto complainant. The defacto complainant trusted the said Subash. But, he has misused and in collusion with the petitioner herein had made the case to be filed against the defacto complainant under Section 138 of Negotiable Instruments Act.

4. The learned counsel for the intervenor submits that it is the big gang, which is operating under the leadership of Subash. The petitioner, Subash and others have been attempting the grab money and property of the defacto complainant. Further, he stated that he has moved a direction petition seeking to transfer of investigation, since the first respondent police have not taken any steps so far in this regard.

5. The learned Additional Public Prosecutor submits that requisition has been sent to the Bank seeking details and investigation is in initial stage. Only after a detailed investigation, the complicity of the accused persons could be ascertain.

6. Considering the nature of the offence and submission made by the parties, the 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 of receipt of a copy of this order, before the learned Judicial Magistrate, Palani, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the said Magistrate, on further condition that:

[a] if the petitioner fail to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent police as and when required.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
28/11/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE
PALANI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
DINDIGUL DISTRICT
- 3 THE INSPECTOR OF POLICE,
PALANI TALUK POLICE STATION, PALANI,
DINDIGUL DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to MR.A.THIRUVADI KUMAR Advocate SR.No.22309

ORDER
IN
CRL OP(MD) No.18649 of 2018
Date :28/11/2018

MSI/VR-MMS/SAR-II/12.12.2018-3P/6C