



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

Monday, the Twelfth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.18677 of 2018

STALIN ARULPRAKSH

... PETITIONER/ ACCUSED No. 1

Vs

STATE:

REP. THE INSPECTOR OF POLICE
CITY CRIME BRANCH,
TRICHY CITY.
(CRIME NO. 35 OF 2018)

... RESPONDENT/ COMPLAINANT

N.ABDUL WAHAB

... PETITIONER/INTERVENER

For Petitioner : MR.B.ANANDAN, Advocate for
MR.S.DEENADHAYALAN Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

For Intervener : MR.T.SENTHIL KUMAR, Advocate

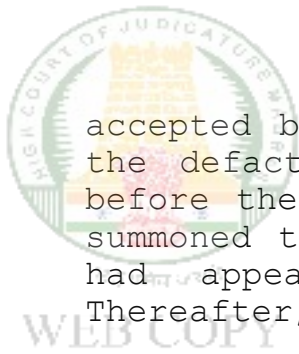
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 120-B, 408, 477-A, 465, 468, 471, 420 and 201 of IPC., in Crime No.35 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner, while he was working as an Accountant in 'Famina Shopping Mall', Trichy, along with A2 had created forged documents in the Swiping Machine transaction, Debit and Credit card purchase transactions, thereby, misappropriated a sum of Rs.17,50,624/-.

3. The learned counsel appearing for the petitioner would submit that the petitioner was working as Accountant in the Femina Shopping Mall and resigned his job on 09.03.2018, which was



accepted by the Management and he has been relieved. Thereafter, the defacto complainant had preferred a complaint on 21.04.2018, before the Commissioner of Police, which was forwarded to CCB, who summoned the petitioner and conducted the enquiry. The petitioner had appeared in the enquiry and offered his explanation. Thereafter, the fate of the enquiry is not known.

4. The learned counsel appearing for the defacto complainant / intervener would submit that the petitioner had gained confidence of the Management, since he was working for 11 years. He had been committing the offence for a long time, by adjusting the cash sales and credit card sales according to his needs. By making such alteration, the amounts were defalcated by the petitioner along with the other accused. The modes operandi has been found out by the Management after a long time. Thereafter, they preferred a complaint before the respondent Police and a detailed enquiry has been conducted. So far, they could find an amount of Rs.17,50,624/-, for the period from July 2017 to March 2018 has been defalcated. Therefore, on custodial interrogation only, the entire amount defalcated by the petitioner would be known. He has produced voluminous documents of Ledger Account, Bank Statement and Credit Card sale slips.

5. The learned Government Advocate (crl.side) appearing for the respondents, on instructions, would submit that custodial interrogation of the petitioner is very much necessary to carry-out the investigation further and to recover defalcated amount by the accused.

6. I have heard the learned counsels appearing on either side and perused the materials available on record.

7. It is an admitted case that on earlier, investigation has been carried out by the same police, which fact could be found in the FIR. Thereafter, a petition under Section 156(3) of Cr.P.C., has been filed by the defacto complainant, before the learned Judicial Magistrate No.2, Trichy, who in turn forwarded the same to the Central Crime Branch, who on receipt of the petition had filed the above case in Crime No.35 of 2018. Admittedly, in this case, the offences alleged are all document based offences. The entire documents are the Bank statements, Femina Shopping Complex Bill receipts and the credit and debit card statement, which are available with the respondent Police.

8. Taking note of the fact that the case has been forwarded to the Central Crime Branch by the learned Judicial Magistrate No.2, Trichy, on a petition filed under Section 156(3) of Cr.P.C., and the documents have been secured by the respondent Police, the custodial interrogation of the petitioner in this case is not necessary. Therefore, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate No.I, Thiruchirappalli, 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 learned Magistrate concerned and on further condition that;

[a] if the petitioner failed 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, daily at 10.00 a.m., until further orders, for interrogation.

[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/-
12/11/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO I
TIRUCHIRAPPALLI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TRICHIRAPPALLI
- 3 THE INSPECTOR OF POLICE
CITY CRIME BRANCH, TRICHY CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

- +1. CC to MR.S.DEENADHAYALAN Advocate SR.No.21410
+1. CC to MR.T.SENTHIL KUMAR Advocate SR.No.21404

ORDER
IN
CRL OP(MD) No.18677 of 2018
Date :12/11/2018