



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

Monday, the Seventeenth day of December Two Thousand Eighteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.18669 of 2018

1 O. PITCHAIRAJAN

2 P. NAVEEN CHANDER

... PETITIONERS / ACCUSED RANK NOT KNOWN
Vs

THE STATE REPRESENTED BY.
THE INSPECTOR OF POLICE,
CUMBUM POLICE STATION,
THENI DISTRICT.

(IN CRIME NO. 519 OF 2018)

... RESPONDENT / COMPLAINANT

S.R.RAJASEKAR

...PETITIONER/INTERVENER

For Petitioners : Mr.D.VEERAKATHIRAVAN, Advocate for Mr.VEERA
ASSOCIATES Advocate

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

For Intervenor : Mr.C.ARUL VADIVEL SEKAR, 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 alleged offences punishable under Sections 420, 294(b) and 506(ii) of IPC., in Crime No.519 of 2018, seek anticipatory bail.

2. The case of the prosecution is that one Thiagarajan, has given a complaint before the respondent Police alleging that his son-in-law viz., one A.R.Naga Raja Pandyan S/o.Raman, residing at No.4/167, Tahsildar Nagar, Maruthapandiar Street, Madurai, alleged to have given a sum of Rs.3,00,000/- to the 2nd petitioner for starting a sand quarry and subsequently, under the guise of getting permission for conducting the said quarry operations, as a partner, another sum of Rs.6,00,000/- has been received by the 2nd petitioner from the defacto complainant's son-in-law. There is an agreement for running quarry operations between the 2nd respondent and son in law of the defacto complainant at Cumbum. Sofar, the licence for running the quarry is not obtained and amount is not repaid and there was no commencement of the quarry operations. Hence, the case.

3. The learned counsel appearing for the petitioners would submit that son-in-law of the defacto complainant and the 2nd



petitioner are known to each other. The 2nd petitioner had applied for gravel quarry at Elumalai Village, Peraiyur Taluk, Madurai District. Further, the 2nd petitioner has got environmental clearance for running the said quarry operations on 15.02.2016. Since the place 'Elumalai' is a notified village, under the Hill area, the 2nd petitioner took all steps and approached the HACA Committee for getting report. He would further submit that the entire transaction is a commercial transaction between the defacto complainant and the second petitioner, for conducting quarry operations. The 1st petitioner herein is the father of the 2nd petitioner, who has been falsely implicated in this case and he is no way connected with the transactions between the 2nd petitioner and the defacto complainant.

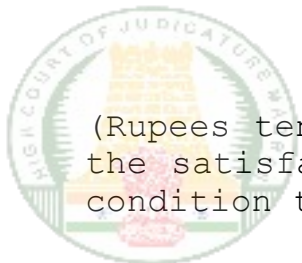
4. Learned Additional Public Prosecutor, appearing for the State would submit that due to some misunderstanding, in respect of starting of quarry operation between the defacto complainant and the petitioners, the defacto complainant had lodged a complaint and based on that, a case in Crime No.519 of 2018 has been registered against the petitioners and the investigation is in progress.

5. The learned counsel appearing for the defacto complainant / intervener would submit that respondents 1 & 2 / Petitioners / Accused 1 & 2 are father and son respectively. A1 is Sedapatti Union Secretary of the Ruling Party. Both the accused had approached the petitioner and made him to believe that they got permit to quarry gravel in 'Big Tank' (Periya Kanmoi), Yelumalai Village, Usilampatti Taluk and entered into a lease agreement with the defacto complainant to take the gravel from the said tank. The 2nd respondent herein / A2 entered into a partnership agreement with one VNM.Mahendran through a Partnership Deed, dated 05.05.2016 and received Rs.2,00,000/- from him stating that he got license from the authorities for quarry operation. The defacto complainant came to know the cheating activities of the accused, preferred a complaint before the Inspector of Police, Cumbum Police Station, Theni District, on 05.10.2018. Hence, the defacto complainant vehemently opposes to grant anticipatory bail to the accused.

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

7. Admittedly, there was some misunderstanding in starting and obtaining licence for quarry operation, the defacto complainant lodged a complaint alleging that the petitioners cheated to the tune of Rs.9,00,000/-. The offences are all document based. On the above factual scenario, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions;

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate, Uthamapalayam, on condition that the petitioners shall execute each 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 petitioners failed to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police, daily at 10.00 a.m., for a period of two weeks and thereafter, as and when required, for interrogation.

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

[d] the petitioners 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 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]**.

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

sd/-

17/12/2018

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM.

2 THE CHIEF JUDICIAL MAGISTRATE, THENI.

3 THE INSPECTOR OF POLICE
CUMBUM POLICE STATION, THENI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT MADURAI.

+1. CC to Mr. C. ARUL VADIVEL SEKAR, Advocate SR.No.23390
PS/VR/SAR-3/31.12.2018/3P-6C

ORDER

IN

CRL OP (MD) No.18669 of 2018

Date : 17/12/2018