



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

Thursday, the Second day of August Two Thousand and Eighteen

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PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP (MD) No.8991 of 2018

1.MOHSIN SHARIFF

2.MYNUDDIN

... PETITIONERS / ACCUSED NO.1 &4

3.MOHAMMED RAFI

... PETITIONERS / ACCUSED NO.6

Vs

THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
MADURAI CITY, MADURAI.
(CRIME.NO.12 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.Ajmalkhan, Senior Counsel for
M/S.AJMAL ASSOCIATES.

For Respondent : Mr.A.ROBINSON, Govt. Advocate (Crl.Side)

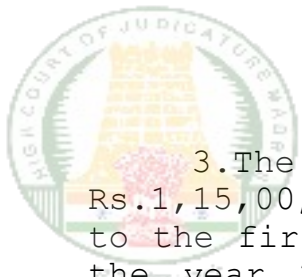
For Intervenor : Mr.MAHENDRAPATHY, Advocate.

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

ORDER : The Court Made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under Sections 406, 420, 120(b) and 506(i) I.P.C, in Crime No.12 of 2018, seek anticipatory bail.

<https://hcservices.ecourts.gov.in/hcservices/>
2.Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Criminal side) appearing for the respondent and the learned counsel for the defacto complainant.



3.The case of the defacto complainant is that a sum of Rs.1,15,00,000/- (Rupees one crore and fifteen lakh only) was given to the first accused for getting a P.G seat in Medical. This was in the year 2012-2013. But as promised, the P.G seat could not be secured. The first accused has executed a registered pro-note in favour of the defacto complainant. From the side of the first petitioner, a sum of Rs. 5,00,000/- alone was transferred by RTGS in favour of the defacto complainant.

4.This Court took the view that the money had changed hands from the defacto complainant to the first petitioner herein. Therefore, this Court suggested to the learned Senior Counsel appearing for the petitioners that the petitioners must settle their liabilities and this Court would be inclined to consider their request for payment in easy instalments. Accepting the said suggestion, the learned Senior Counsel appearing for the petitioners produced 9 cheques in all drawn in the name of the defacto complainant . It is agreed that the cheques would be honoured and that the first petitioner will not cause its dishonour. He shall make proper arrangement for encashing the cheques. The first petitioner is also directed to file an undertaking affidavit in this regard. This stipulation is made only to ensure that if the cheques are dishonoured, the first petitioner will be liable not only for the penal consequences in terms of Section 138 of Negotiable Instrument Act, but also for contempt of Court. The Cheques shall be honoured on or before 30.10.2020. But, the learned counsel for the intervener submitted that the repayment period is fairly long.

5.Recording the undertaking of the first petitioner to file an undertaking affidavit before this Court within a period of one week from the date of receipt of a copy of this order, this Court is inclined to grant anticipatory bail to the petitioners.

6.The respondent is directed to keep the investigation on hold till October 2020. If all the 9 cheques are honoured, the respondent shall file a closure report. This order has been passed with the consent of the petitioners and as well as the defacto complainant.

7.It is not necessary for the petitioners to surrender before the Jurisdictional Magistrate or execute sureties or appear before the respondent. The only condition that is imposed by this Court is that the petitioner shall ensure that the cheques are honoured without default.

8.The learned Senior Counsel appearing for the petitioners seeks permission of this Court to relax the condition imposed on the fifth accused, who is aged about 19 years to appear once in a month before the Jurisdictional Court in Cr.M.P.No.2099 of 2018, dated 26.04.2018 by the learned Principal Sessions Judge, Madurai. The said condition stands deleted.



9. With these directions and observations, this Criminal Original Petition is allowed.

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sd/-
02/08/2018

/ TRUE COPY /

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

TO

1. THE PRINCIPAL SESSIONS JUDGE,
MADURAI.

2. THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
MADURAI CITY, MADURAI.

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

+1. CC to M/S.AJMAL ASSOCIATES, Advocate, SR.No.15152.

+1. CC to Mr.MAHENDRAPATHY, Advocate, SR.No.15126.

ORDER
IN
CRL OP(MD) No.8991 of 2018
Date : 02/08/2018

RAM/VR/SAR 4/20.08.2018/2P/6C