



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

Tuesday, the Twentieth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.19267 of 2018

N.VIDHYA

... PETITIONER / ACCUSED RANK NOT KNOWN

Vs

STATE REP. BY

THE INSPECTOR OF POLICE,
USILAMPATTY TOWN POLICE STATION,
USILAMPATTY, MADURAI DISTRICT.

... RESPONDENT

For Petitioner : MR.A.JOHN VINCENT Advocate

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

For Intervener : MR.G.KARUPPASAMY PANDIAN, Advocate

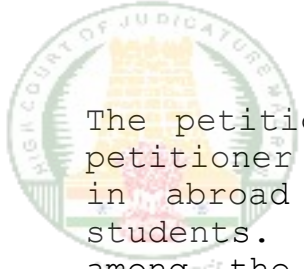
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

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 Section 406 and 420 of IPC., in Crime No.775 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is doing consultancy business in Coimbatore and have taken Franchises from Anix Education, an Overseas Education Consultancy. The petitioner, instead of making arrangement for the son of the defacto complainant to study in abroad in Medicine, joined him in a course in Oil and Gas and thereby, cheated the defacto complainant, to the tune of Rs.5,45,000/-.

3. Mr.A.John Vincent, the learned counsel appearing for the petitioner would submit that the petitioner is doing a constancy business in Coimbatore and have been taken Franchises from Anix Education, an Overseas Education Consultancy. The Anix Education has its Head Office at Cochin and have Franchisees in Trivandrum, Chennai, Coimbatore, Tirunelveli, Madurai, Salem and other places.



The petitioner is a Franchisee at Coimbatore. As Franchisee, the petitioner to select good eligible students and send them to study in abroad (Ukraine) for MBBS. This year, she had sent five students. The defacto complainant's son Bharath Pandian is one among the five students. Initially, Bharath Pandian's father approached Anix Education at Cochin for his son for pre-medical and MBBS in Ukraine. On their suggestions, the defacto complainant had approached the petitioner. The payments were made in the name of Anix Education. The Anix Education took Visa for him and successfully sent him to Ukraine for pre-medical course.

4. He would further submit that the aspirants have to pass NEET exams to get admission in Foreign Medical University. The Medical Council of India gave an exemption, by Public Notice, dated 23.04.2018, giving exemptions from the requirement of NEET - 2018, to the students, those who joined before 31st May, 2018. The said Bharath Pandian reached on 30th May and admitted in premed and started his course in Ivano University during the Month of June and completed the course in September, 2018. In the examinations, he got very low marks and he could not successfully clear the examinations. As per the Medical Council of India Regulation and Ministry of Public Health of Ukraine, pre-medical failure students are not eligible for studying MBBS. During that time, the Delhi High Court had passed an order giving exemptions in NEET to join in foreign University to the students for that academic year. Anix Education tried to help the student, got admission from Odessa National Medical University and asked him to write entrance exam. In the meanwhile, the defacto complainant, without informing Anix Education, had moved his son from Ivano University to Kharakiv University, seeking admission. During 3rd week of October, after knowing the difficulties in getting recognition from the Medical Council of India, for his son's enrolment in a different University, since Visa was obtained through Anix education, the defacto complainant, again made a request and the Anix Education started the process. In the meanwhile filed the above complaint. The petitioner had filed a typed set wherein the Passport, Visa and the Premed result issued by Ivano Franchises were filed. The other students, who were sent by Anix Education have cleared their pre-medical exam and the petitioner's son, due to his failure in clearing premed exam, he could not be admitted for MBBS Course. Further, the petitioner submitted that the defacto complainant had approached the Principal, Anix Education, at Cochin and he had made all the payments in the name of Principal. The first respondent, without jurisdiction, had entertained the complaint of the defacto complainant, due to the petitioner's position.

5. The defacto complainant, who is an Advocate by profession, had preferred a complaint to the respondent Police that his son was attending coaching class in a private coaching centre for NEET exam and he was intending to study MBBS in Russia. The defacto complainant had enquired into with the father of one Sakthi, who had referred him to the petitioner and thereafter, he had paid Rs.4,00,000/-, for his son studies, Instead of making arrangement in Medical University, his son was joined in a course in Oil and



Gas. When it was enquired, the petitioner stated that the same will be rectified and done nothing thereafter. Hence, the defacto complainant's son's future education has been spoiled and he has been cheated to the tune of Rs.5,45,000/-.

6. Considering the above facts and circumstances of the case and taking note of the rival submissions made on either side and on perusal of the materials produced before this Court, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions;

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, before the learned Judicial Magistrate, Usilampatty, 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, being a lady, shall report before the respondent police, as and when required, on receipt of summons from the respondent, 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/-

20/11/2018

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE,
USILAMPATTY.

2 DO THROUGH THE CHIEF
<https://hcservices.ecourts.gov.in/hcservices/>
JUDICIAL MAGISTRATE, MADURAI.



3 THE INSPECTOR OF POLICE,
USILAMPATTY TOWN POLICE STATION,
USILAMPATTY, MADURAI DISTRICT.

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

+1. CC to M/SA.JOHN VINCENT Advocate SR.No. 21786

ORDER
IN
CRL OP(MD) No.19267 of 2018
Date :20/11/2018

JM/VR MMS/SAR 1/22.11.2018/4P/6C