



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

Thursday, the Twenty Ninth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.21158 of 2018

E.MURUGESAN

... PETITIONER / 1st ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
UTHAMAPALAYAM POLICE STATION,
THENI DISTRICT.
CRIME NO.549/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.B.BRIJESH KISHORE Advocate

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

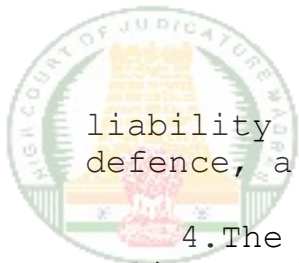
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

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 294(b), 341 and 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, in Crime No.549 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner had purchased a house belongs to the defacto complainant vide Document No.321/2017, dated 01.03.2017 for a sale consideration of Rs.31,00,000/-. Thereafter, on 01.07.2018, the defato complainant had taken a hand loan of Rs.20,00,000/- from the petitioner with a promise to return the said amount in three months. In discharge of the same, he had given a cheque bearing No.176442, dated 03.10.2018 drawn on State Bank of India, Uthamapalayam Branch to the petitioner. The cheque was presented for encashment on 03.11.2018 and it was returned for the reason "Payment stopped by drawer". Thereafter, the petitioner had issued a legal notice on 17.11.2018 and the petitioner had received the same on 20.11.2018. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has nothing to do with the alleged occurrence. He further submitted that to escape from the



liability of paying under Negotiable Instrument Act and as a defence, a false case has been foisted.

4. The learned Additional Public Prosecutor for the respondent police would submit that the petitioner had given a complaint to the Deputy Superintendent of Police on 29.10.2018 and thereafter, the FIR came to be registered on 24.11.2018. Further, the case has been filed under Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, for which, there seems to be no proof except for the oral statement of the defacto complainant.

5. Taking into consideration the facts of the case and the submissions by learned counsels, this Court is inclined to grant anticipatory bail to the petitioner.

6. Accordingly, 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, Uthamapalayam, 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 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/-

29/11/2018

/ TRUE COPY /

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



TO

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

+1. CC to Mr.B.BRIJESH KISHORE Advocate SR.No.22359

ORDER

IN

CRL OP (MD) No.21158 of 2018

Date :29/11/2018

MS/PN/SAR-2/05.12.2018/3P.6C