



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

Friday, the Twenty Fifth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.1090 of 2019

MOHAMED NAWAS

... PETITIONER / ACCUSED No.1

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
B3, THEPPAKULAM(L&O) POLICE STATION,
MADURAI CITY.
(IN CRIME NO.1034 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.M.A.JINNAH Advocate

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

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner is in judicial custody since 12.11.2018 for the offences punishable under Sections 147,148,294(b),323,324,364(a), 392,397 of IPC and Sections 3,4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act Crime No.1034 of 2018 on the file of the respondent police and seeks bail.

2. The victim is the complainant in this case. The case of the prosecution is that the victim had taken a loan of Rs.2,00,000/- from the first petitioner during the year 2014, for which the defacto complainant had executed certain pronote and cheques and had repaying the interest and part of the loan amount. After four years the petitioner demanded the defacto complainant a due of Rs.2,00,000/- and there was some dispute in between them. On 06.11.2018, the defacto complainant has pledged his mother's jewels in Thangam Finance for Rs.1,50,000/- and kept the money in his TVS scooty and was riding. The defacto complainant was intercepted by the petitioner and others and was taken to the cow shed where he was tide and he was kept isolated. In the evening he was taken to James & Co, and using his credit card and Bajaj Finserly Card the petitioner and his friends purchased TV and other electronic items worth Rs.50,000/- and had also taken Rs.1,50,000/- and in the meanwhile had also taken naked photos of the defacto complainant in



the mobile phone and threatened him that if he lodge complaint against them, they will upload the photos in the social media. Fearing the same the defacto complainant did not prefer any complaint and after getting embolden from his father, the defacto complainant had lodged a complaint before the respondent police.

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3. The learned counsel for the petitioner would submit that the defacto complainant and the petitioners are friends and the defacto complainant had helped him for his financial needs in the year 2014 and in order not to repay the money a false case has been foisted against the petitioner. It is seen from the CCTV footage of the James & Co that the defacto complainant was freely moving in the said shop. Further he submit that the entire electronic goods has been recovered. He would also submit that the petitioner is M.Sc graduate and so far there is no adverse remarks against this petitioner. He would also submit that the petitioner's father suffered heart attack and taking treatment in the hospital and now discharged. He would also submit that petitioner's mother is the house wife and the petitioner being the only son who has to take care of her father to provide medical treatment.

4. The learned Government Advocate (Crl. Side) would submit that the investigation is going on. He would also submit that other accused is yet to be apprehended.

5. Considering the above facts and circumstances and also the period of incarceration and also considering the special circumstances that the petitioner is the only son to take care of her father who suffered heart attack, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Judicial Magistrate No. I, Madurai and on further condition that:

[a] the petitioner shall appear before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

[b] the petitioner shall not tamper with evidence or witness either during trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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]**.

[e] If the accused thereafter absconds, a fresh FIR Can be registered under Section 229 A IPC.

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25/01/2019

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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,
MADURAI.
 - 2.DO THRO'THE CHIEF JUDICAIL MAGISTRATE,
MADURAI DISTRICT.
 - 3 THE INSPECTOR OF POLICE,
B3, THEPPAKULAM(L&O) POLICE STATION,
MADURAI CITY.
 - 4.THE SUPERINDENTENT,
CENTRAL PRISON, MADURAI.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to MR.S.M.A.JINNAH Advocate SR.No.1370

ORDER
IN
CRL OP(MD) No.1090 of 2019
Date :25/01/2019

AE/DS/SAR2/25.01.2019/3P/7C