



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

Wednesday, the Ninth day of January Two Thousand Nineteen

PRESENT

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The Hon`ble **Mr.Justice** M.NIRMAL KUMAR

CRL OP(MD) No.277 of 2019

M.NARASINGA MOORTHY

... PETITIONER / ACCUSED No.2

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
TALUK POLICE STATION, DINDIGUL,
DINDIGUL DISTRICT
Crime No.344/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.A.ARUL JENIFER 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 was arrested and remanded to judicial custody since 28.11.2018 for the offences punishable under Sections 417 and 420 IPC in Crime No.344 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is the elder sister of one Venkadesh. The said Venkadesh and one Vimaladevi / A1 were close friends. A1 is the relative of one Narasinga Moorthi / A2. A1 and A2 are said to have introduced A3 namely Muthukumar, being the person with good conducts, who would be in a position to secure the employment. The said Venkadesh / brother of the defacto complainant had confirmed the same with A2, who was working in the Electricity Department. The petitioner is said to have stated that A3 is also making arrangements for getting Government job. In order to get a Government job, the said Venkadesh paid a sum of Rs.4,00,000/- to A3 at the residence of A1 in the presence of A2. This payment was made on the understanding that all the accused shall take sincere efforts in securing job to the said Venkadesh. Subsequently, the said Venkadesh had passed away due to an accident. Thereafter, the defacto complainant and her parents having lost her brother, had been making several efforts to get back the money, which had been paid by the said Venkadesh. But, all attempts were failed. Hence, the complaint.



3. The contention of the petitioner is that the petitioner himself is also a victim, who has lost money on the false promise made by A3 namely Muthukumar, who is the relative of the petitioner. He had as early as May 2018 had given a complaint before the Commissioner of Police against him for being cheated and the Commissioner of Police has forwarded the case to Choolaimedu Police Station, who had called A3 / Muthukumar for enquiry and the said Muthukumar / A3 has given an undertaking to make the payment and settle the issue. Thereafter, he apprehended arrest.

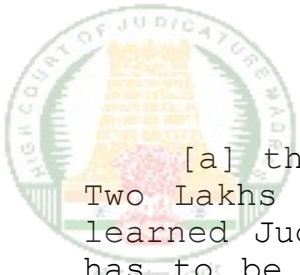
4. The learned counsel appearing for the petitioner submits that the respondent police, knowing that the said Muthukumar is not taking efforts, has not taken any steps to arrest him. On the other hand, the petitioner, who is working in the Electricity Department, who was also the victim, had been arrested in this case.

5. Taking into consideration the plight of the defacto complainant, the petitioner had offered to show his bonafide that he will give Rs.2,00,000/- [Rupees Two Lakhs only] to the defacto complainant and therefore, he requested time to deposit the said amount. This deposit will not be construed in any manner that the petitioner will cause prejudice to his right and plea his innocence. This deposit will not be unfettered right of the money to the defacto complainant. The deposit of Rs.2,00,000/- would be with the defacto complainant subject to the outcome of the case.

6. It is seen from the materials produced by the petitioner that A3 seems to be the person, who has cheated not only the petitioner but also others to a large extent. Hence, the respondent police is directed to take effective steps in securing A3, namely, Muthukumar, who seems to be in normal activities and very much available.

7. Considering the the facts and circumstances of the case and the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner on condition that the petitioner shall deposit a sum of Rs.2,00,000/- [Rupees Two Lakhs only] to the credit of Crime No.344 of 2018 before the learned Judicial Magistrate No.I, Dindigul, of which, Rs.1,00,000/- has to be paid while executing sureties and the balance amount of Rs.1,00,000/- has to be deposited within a period of fifteen days from the date of sureties executed. The defacto complainant shall file a petition seeking return of the amount of Rs.2,00,000/-, the learned Judicial Magistrate No.I, Dindigul, is directed to hand over the same to the defacto complainant on obtaining bond.

8. 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 learned Judicial Magistrate No.I, Dindigul, and on further condition that:



[a] the petitioner shall deposit a sum of Rs.2,00,000/- [Rupees Two Lakhs only] to the credit of Crime No.344 of 2018 before the learned Judicial Magistrate No.I, Dindigul, of which, Rs.1,00,000/- has to be paid while executing sureties and the balance amount of Rs.1,00,000/- has to be paid within a period of fifteen days from the date of sureties executed.

[b] the petitioner shall report before the respondent police as and when required for interrogation.

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

[d] the petitioner shall not tamper with evidence or witness 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 absconds, a fresh FIR can be registered under Section 229A IPC.

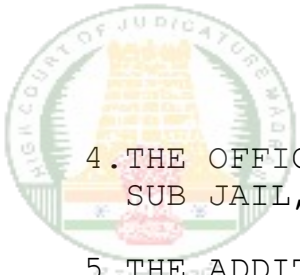
sd/-
09/01/2019

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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,
DINDIGUL.
- 2.THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.
- 3.THE INSPECTOR OF POLICE
TALUK POLICE STATION, DINDIGUL,
DINDIGUL DISTRICT.



4. THE OFFICER INCHARGE,
SUB JAIL, DINDIGUL.

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

+1. CC to Mr.A.ARUL JENIFER Advocate SR.No.525

ORDER

IN

CRL OP (MD) No.277 of 2019

Date : 09/01/2019

TK/VR/SAR-1/09.01.2019/4P/7C