



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

Tuesday, the Twenty Sixth day of March Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.4489 of 2019

1 MOHAMMED IDRIS

2 JARINA BANU

... PETITIONERS / ACCUSED NO.1 & 2

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
CCB POLICE STATION,
MADURAI CITY.

(CRIME NO. 45 / 2018)

... RESPONDENT / COMPLAINANT

For Petitioners : Mr.M.S.JEYAKARTHIK Advocate

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

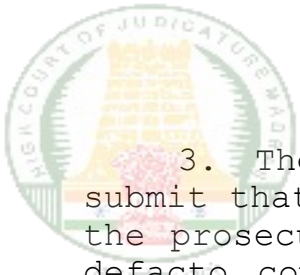
For Intervener : Mr.R.SEVUGARAJA,Advocate

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

ORDER : The Court Made the following order :-

The petitioners who are apprehending arrest at the hands of the respondent police for the alleged offence under Sections 406, 420 and 506(i) of IPC in Cr.No.45 of 2018, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners herein are the husband and wife. The defacto complainant and the petitioners are well known to each other. The defacto complainant runs a Jewellery shop in the name of Lakshmi Ganapathi Jewellery. In these circumstances, the second accused approached the defacto complainant and made a request to the defacto complainant that her husband was detained in Malaysia in connection with one criminal case. Hence, she asked for a loan of Rs.15,00,000/- (Rupees Fifteen Lakhs Only). Having considered the request of the second accused, the defacto complainant gave Rs.15,00,000/- (Rupees Fifteen Lakhs Only) to the second accused. Moreover, the second accused also received 60 sovereigns of gold jewels from the defacto complainant. Thereafter, the accused persons did not return back the money and jewels to the defacto complainant. Hence, he lodged a complaint against these petitioners.



3. The learned counsel appearing for the petitioners would submit that the petitioners did not commit any offence as alleged by the prosecution in fact the first petitioner is an employee of the defacto complainant and they have been falsely implicated in this case and they are no way connected with the alleged offence. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned counsel for the intervener would submit that the petitioners issue a receipt in favour of the defacto complainant and agreed to pay Rs.50 Lakhs but the said payments were not repaid.

5. The learned Government Advocate (Crl. Side) vehemently opposed the grant of bail. Since the first petitioner was detained in Malaysia and in order to release the first petitioner, the second petitioner has borrowed the said amount and has not repaid and the investigation is still pending. The petitioner has also obtained a promissory note from the defacto complainant. It is open for him to work out his remedy in the manner known to law.

6. Considering the facts and circumstances of the case and also considering the fact the complaint relates money dispute it can be solved through civil Court there is no serious allegations against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Madurai, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

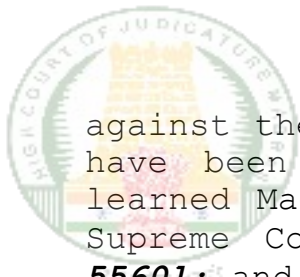
(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the first petitioner shall report before the respondent police daily at 10.30 a.m until further orders and the second petitioner shall report before the respondent police as and when required for interrogation;

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**;* and;

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(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
26/03/2019

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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 THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE INSPECTOR OF POLICE
CCB POLICE STATION,
MADURAI CITY.
- 4 ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

+1. CC to Mr. M.S.JEYAKARTHIK Advocate SR.No.5642

PS/MMS/SAR-3/05.04.2019/3P/6C

ORDER
IN
CRL OP(MD) No.4489 of 2019
Date :26/03/2019