



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

Date : 21/06/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.4587 of 2019

D.Sam David,

... Petitioner/Accused
Rank not Known

Vs

1. The Assistant Superintendent Of Police,
Nagercoil Town, Kanyakumari District.

2. The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.

(*) (Crime No. 132 of 2019) .

... Respondents/Complainants

(*)Amended as per the order of Hon'ble
Court made in Crl. MP(MD).No.5097 of 2019 in
CRL OP(MD).No.4587 OF 2019 vide order dated
18.06.2019 by PRMJ.

For Petitioner : M/s.S.C.Herold Singh,
Advocate.

For Respondent : V.Neelakandan,
Additional Public Prosecutor,

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

PRAYER :-

For Anticipatory Bail in Crime No. 132 of 2019 on the file of
the Respondent Police

ORDER

The petitioner, who apprehends arrest at the hands of the
respondent police for the offences punishable under Sections 420 of
IPC, in Crime No.132 of 2019, seeks anticipatory bail.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard both sides.



3. The learned counsel appearing for the petitioner has submitted that the petitioner is an innocent person and he has been falsely implicated in the above case. He further submitted that the petitioner has borrowed a sum of Rs.30,00,000/- from the defacto complainant and issued three blank cheques to him. Subsequently, the petitioner repaid the said amount, but, the defacto complainant refused to return the cheques and hence, the petitioner has lodged a complaint before the respondent police and C.S.R.No.702 of 2016 has also been issued and enquiry was conducted by the respondent police. During the enquiry, the defacto complainant has admitted that the petitioner has repaid the loan and returned the aforesaid cheques to the petitioner. Thereafter, the defacto complainant gave a false complaint as if the petitioner has not repaid the amount and therefore, he prayed for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent has submitted that the petitioner has lodged a complaint against the defacto complainant and C.S.R.No.702 of 2016 was issued and the matter was compromised and the complaint was closed. He further submitted that the petitioner has borrowed an amount of Rs.34,00,000/, but he has not settled the entire amount and hence the present case has been registered. Since the investigation is pending, he opposed the petition.

5. Taking into consideration of the aforesaid fact and also the fact that already the petitioner had lodged a complaint against the defacto complainant and also the submission made by the learned counsel for the petitioner that the defacto complainant has returned the cheques of the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

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 No.II, Nagercoil, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the the petitioner shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.



(iii) the the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the the petitioner shall not abscond either during investigation or trial.

(v) 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 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].

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

sd/-
21/06/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE NO.II, NAGERCOIL.

2 DO THRO'THE CHIEF JUDICAIL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE ASSISTANT SUPERINTENDENT OF POLICE,
NAGERCOIL TOWN, KANYAKUMARI DISTRICT.

4 THE INSPECTOR OF POLICE
VADASERI POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-10320[I] dated
24/06/2019)

ORDER
IN
CRL OP(MD) No.4587 of 2019
Date :21/06/2019

Ls