

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

Tuesday, the Thirtieth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.5064 of 2019

1 MANOHARAN
2 M.SANTHI

... PETITIONER/ACCUSED No.1,2

Vs

THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
BAZAAR POLICE STATION,
RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.
CRIME NO.536/2017

... RESPONDENT/COMPLAINANT

M.K.SENDHILNATHAN

... PETITIONER/FIRST INFORMANT
in CRL MP (MD) No.3457/2019
in CRL OP (MD) No.5064/2019

For Petitioners : MR.D.BALAMURUGAPANDI, Advocate

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

For Intervenor : Mr.MA.KARUNANITHI, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 420, 465, 468 and 471 of I.P.C., in Crime No.536 of 2017, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners tried to cheat the defacto complainant by submitting sale deed documents for getting housing loan. Initially, he approached the defacto complainant to produce the property document for getting loan. Thereafter, he obtained the loan amount and the same was not given to the defacto complainant. For which, the SARFAESI proceedings was initiated against the petitioners.

3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. In fact, they obtained 29 lakhs. Out of which, 21 lakhs was already repaid and the remaining 8 lakhs is yet to be paid. He filed an affidavit as follows:

"6.I humbly submitted that in this circumstances the State Bank of India Ramanathapuram Branch initiated the proceeding as against us in the DEPT RECOVERY TRIBUNAL by filing the O.A. No.842 of 2016, it is pending for proper adjudication. Hence, I filed the above said Crl.O.PNo.5064 of 2019, in which the bank demanded a sum of Rs.54,00,000/- as loan due from me, therefore, I hereby under take that I am ready to pay as sum of Rs.47,00,000/- (forty five lakhs) as one time settlement (OTS) for full quit of my above said loan amount, within time stipulated by this Hon'ble Court."

4.The learned counsel for the intervenor/Bank would submit that if the petitioner prepare deposit a sum of Rs.47 lakhs. Therefore, as per the undertaking given in the affidavit the Bank is ready to close all the litigations initiated against the petitioners. The relevant portion of the affidavit reads as follows:

"3.I submit that the respondents 2 and 3 have moved an application for anticipatory bail before this Hon'ble Court in Crl.O.P(MD)No.5064 of 2019, when the above matter was taken up before this Hon'ble Court the learned counsel for the petitioner/accused has expressed the willingness of the petitioner's in Crl.O.P(MD)No.5064 of 2019 for one time settlement of loan availed from the State Bank of India, Ramanathapuram Branch. Hence, the matter was adjourned to today in order to get instructions from the higher officials of the State Bank of India. On instructions I would submit that if the petitioner's/accused is depositing an amount of Rs.47,00,000/- at once towards their liability on account of loan facility availed from SBI, Ramanathapuram Branch, we are ready to receive the same and we will close all the litigation arising out of the said loan availed from the state Bank of India, Ramanathapuram Branch."

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the investigation is still pending.

5.Considering the facts and circumstances of this case and considering the undertaking affidavit filed by the petitioners, 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 receipt of a copy of this order, before the learned Judicial Magistrate No.I, Ramanathapuram, Ramanathapuram District, on condition that the petitioners shall execute a bond for a sum of

Rs.10,000/- (Rupees Ten Thousand Only) each 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 are directed to comply the affidavit and directed to pay a sum of Rs.47,00,000/- on or before 31.07.2019.

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

(c) the petitioners shall report before the respondent police as and when required for interrogation.

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

(e) the petitioners shall not abscond either during investigation or trial;

(f) 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;

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

sd/-
30/04/2019

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

TO

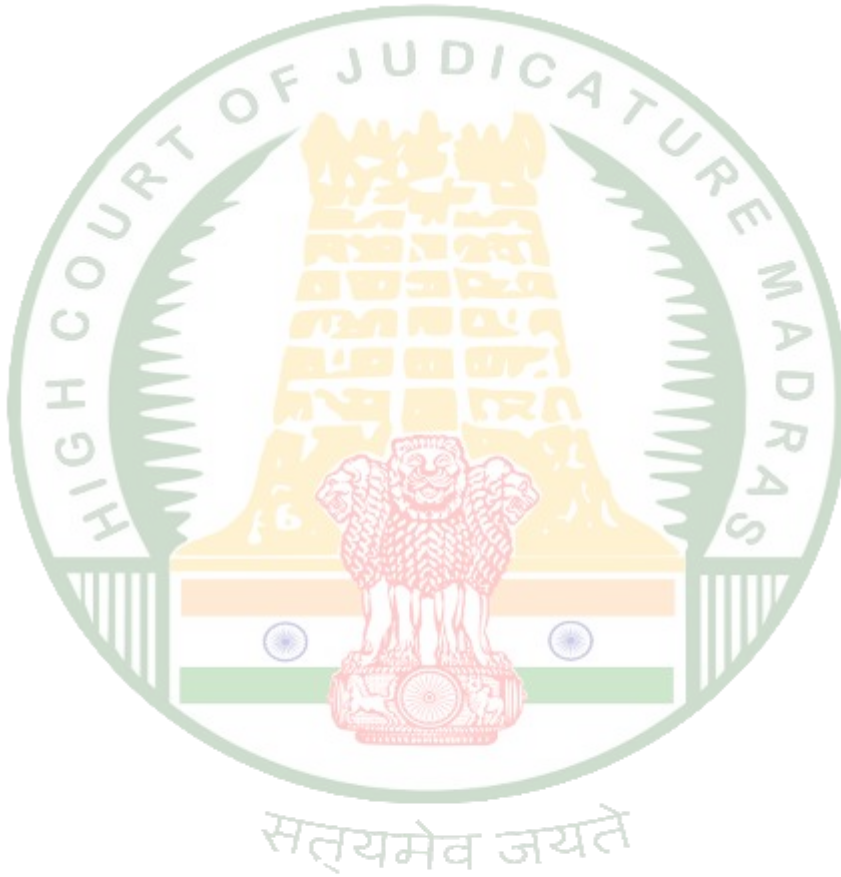
1. THE JUDICIAL MAGISTRATE NO.I
RAMANATHAPURAM, RAMANATHAPURAM DISTRICT,
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT,
3. THE INSPECTOR OF POLICE
BAZAAR POLICE STATION, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT,

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

+1. CC to M/S.D.BALAMURUGAPANDI Advocate SR.No.8045

ORDER IN
CRL OP(MD) No.5064 of 2019
Date :30/04/2019

DAS
PK/JC/SAR-1/08.05.2019 : 4P/6C



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