



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

Thursday, the Twenty Fourth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.517 of 2019

1 KIZAR MOHAMMED NADHEEM
2 SHANTHI @ SHANTHINI

... PETITIONERS / ACCUSED
Nos.1 and 2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CANTONMENT (CRIME) POLICE STATION,
TRICHY DISTRICT.
Crime No.34/2019

... RESPONDENT / COMPLAINANT

For Petitioners : Mr.N.ANANDAKUMAR Advocate

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

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 punishable under Sections 406, 420, 464 and 465 of IPC., in Crime No.34 of 2019, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant viz., Karthick, had lodged a complaint to the Police stating that the first petitioners herein and the defacto complainant are close friends for more than 23 years and the 2nd petitioner is the friend of the 1st petitioner. When the defacto complainant for his urgent family needs demanded a sum of Rs.1,00,000/- from the 1st petitioner, who in turn, had stated that he does not have money and will arrange the same through his friend / the 2nd petitioner, for which the defacto complainant said to have given two blank cheques of Bank of India, SIT College Branch, bearing Cheque Nos.006687 & 006688. Subsequently, the entire amount had been paid by the defacto complainant. Not returning the above cheques, the petitioner had presented the cheques filling himself a sum of Rs.6,00,000/- and Rs.3,00,000/-, without any authority. Hence, the above complaint.



3. The learned counsel appearing for the petitioners would contend that the 1st petitioner had given a loan of Rs.1,00,000/- to the defacto complainant, by way of NEFT transfer, on 11.07.2018. The first petitioner is running 'Grande Motors'. The first petitioner and the defacto complainants are friends. Due to misunderstanding in their relationship, a false complaint has been given against the petitioners. The defacto complainant had received a loan from the 1st petitioner and towards discharge of the same, the defacto complainant had issued cheques, for which, there have been exchange of Notices. Furtherance to that, a case under Section 138 of Negotiable Instruments Act, is to be filed. To avoid such payment and to create the defence for Section 138 Negotiable Instruments Act case, a false complaint has been given against the petitioners. The petitioners have filed a typed set of papers, in which, Notice and bank transactions particulars have been enclosed.

4. The petitioners forged and cheated the defacto complainant by filling up a cash of Rs.9,00,000/-, in the cheques, which were given as security, by the defacto complainant, for the loan obtained from the 1st petitioner, despite the entire loan amount had been paid. Based on the complaint of the defacto complainant, the aforesaid case has been registered against the petitioners and the investigation is pending.

5. I have heard the learned counsels appearing on either side and perused the materials available on record.

6.. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions;

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.II, Trichy, on condition that each petitioners 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 learned Magistrate concerned and on further condition that;

[a] if the petitioners failed to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioners 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 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
24/01/2019

/ TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE NO II, TRICHY.
- 2.THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3.THE INSPECTOR OF POLICE,
CANTONMENT (CRIME) POLICE STATION,
TRICHY DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.N.ANANDAKUMAR Advocate SR.No.1508

ORDER
IN
CRL OP(MD) No.517 of 2019
Date :24/01/2019

TK/PS/SAR-3/29.01.2019/3P/6C