



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

Monday, the Seventh day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21695 of 2018

PALANI

... PETITIONER / ACCUSED No.4

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
THENI DISTRICT.
Crime No. 49 of 2018

... RESPONDENT/ COMPLAINANT

SAKTHIVEL

... PETITIONER/INTERVENER

For Petitioner : Mr.V.MANIKANDAN Advocate

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

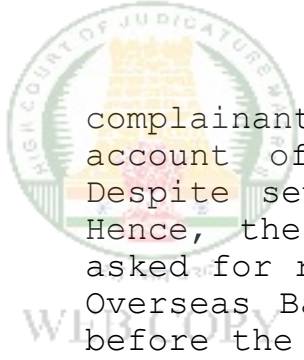
For Intervener : Mr.T.K.GOPALAN Advocate

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

ORDER : The Court Made the following order :-

The petitioner / A4, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 120(b) of IPC., in Crime No.49 of 2018, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is an Ex-Army Man was approached by A1 and his friends stating that they are running a Foundation and through that Foundation, the defacto complainant and his friends, who are interested, can participate in doing various social services by helping the poor and others. In the Foundation, one Thangavel, Jebarani, Palanichami, Jeyakodi, Karuppasamy and one Foreigner were introduced. The said Foreigner transfer funds from Foreign Countries running to several Crores. On receipt of the funds by the complainant and he can use the same for his use work and for which they had to incur some expenditures. Therefore, the defacto



complainant has paid a sum of Rs.50,00,000/-, through cash and bank account of one Thangavel / A2, in presence of other accused. Despite several months, no sign of any functioning of the Trust. Hence, the defacto complainant has approached this petitioner and asked for return on money. A1 said to have given a cheque of Indian Overseas Bank for Rs,25,00,000/-. When the cheque was presented before the Bank, it was dishonoured. On enquiry, the petitioner came to know by the neighbours of the petitioner that the petitioner had cheated several persons. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is hailing from the same village of other accused. Except known to them he has no role in any Trust and he has not received any money from the defacto complainant. He would further submit that the petitioner is working as a Salesman at Athikaripatti Ration Shop, under the Control of Thirumanickam Co-operative Society. In the complaint, there is no overt act against this petitioner. Therefore, the learned counsel prayed for bail in favour of the petitioner.

4. The learned Government Advocate (crl.side) appearing for the respondent, on instructions, would submit that a group of persons, all belonging to the same village, had cheated the defacto complainant and received the money in the name of Trust and not repaid the same. Further, no such Trust was in existence.

5. The learned counsel appearing for the intervener would submit that the defacto complainant's hard earned money and the money collected from his friends and relatives to the tune of Rs.50,00,000/- have been entrusted to A1, on the promise that the defacto complainant would be made as a member in the Trust and thereby, he could do some social work to the people. The accused have no intention to pay the amount and cheated the defacto complainant. Further, the defacto complainant, has also produced the Bank Statement and the messages from the mobile phone, in support of his contentions.

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

7. On perusal of the materials would show that only a sum of Rs. Rs.2.85 Lakhs have been paid during February 2017, by way of Bank to the account of one Thangavel, by the defacto complainant. A sum of Rs.2.41 Lakhs has been paid to an yet another person / Rajkumar. Other than this amount, the balance amount is said to have been paid by cash. On perusal of the materiels it is found that nowhere it is stated that the petitioner has received any amount either through bank or cash.

8. Considering the above facts and circumstances of the case and there is no specific overt act as against this petitioner, this Court is inclined to grant anticipatory bail to the petitioner, with



certain conditions;

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, Theni, 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 learned Magistrate concerned and on further condition that;

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

[b] the petitioner shall report before the respondent police, daily at 10.00 a.m., for a period of two weeks, and thereafter, as and when required, for interrogation

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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

sd/-
07/01/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
THENI.

<https://hcservices.recourts.gov.in/hcservices/>
2. THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.



3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI DISTRICT.

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

+1. CC to Mr.V.MANIKANDAN Advocate SR.No.344

ORDER
IN
CRL OP(MD) No.21695 of 2018
Date : 07/01/2019

TK/VR/SAR-2/08.01.2019/4P/6C