



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

Tuesday, the Twenty Sixth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.19533 of 2018

N.SURESH

... PETITIONER / ACCUSED No.8

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KANYAKUMARI DISTRICT.
(CRIME NO.26/2018)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.B.ANANDAN Advocate

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

For Intervenor : MR.K.P.NARAYANAKUMAR, Advocate

: Mr.N.DILIP KUMAR, Advocate

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

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 406, 420, 468 and 471 of IPC in Crime No.32 of 2019, on the file of the respondent police.

2.It is the case of the prosecution that the petitioner is the owner of M/s.Siva Petroleum at Nagercoil. The defacto complainant is the brother of Accused No.6. The defacto complainant while working in Dubai earned huge amount and the said amount was invested in the name of his brother and family members. The Accused No.6 entered into a sale agreement with the petitioner for purchasing the aforesaid petrol bulk. Accordingly, the petitioner has conveyed his name as a partner in Bharath Petroleum Corporation Limited. Thereafter there was a dispute between the defacto complainant and other accused persons, in which, the petitioner was impleaded as accused.

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

3.The learned counsel appearing for the petitioner as well as



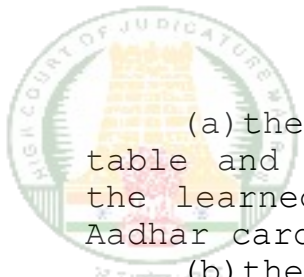
the defacto complainant would submit that after filing this petition, there was a compromise between the parties. The terms of the compromise read as under:

"(1) The petitioner already received a sum of Rs.2,40,50,692/- (Rupees Two Crores, Forty Lakhs, Fifty Thousand, Six Hundred and Ninety Two) from the 2nd respondent through their family members. Now, the 2nd respondent made offer to the petitioner a sum of Rs.60,00,000/- (Rupees Sixty Lakhs) including the remaining sale consideration of earlier agreement dated 08.03.2017.

(2) The 3rd respondent has issued two IDBI Bank postdated cheques in favour of the petitioner. One cheque, a sum of Rs.20,00,000/- (Rupees Twenty Lakhs) bearing No.028325 dated 1.3.2019 is straightaway handover to the petitioner. Another one cheque a sum of Rs.40,00,000/- (Rupees Forty Lakhs) bearing No.047175 dated 22.05.2019 is handed over to Mr.T.Udhayakumar, Advocate, Irulappapuram, Vadiveeswaram, Agasteeswaram Taluk, Kanyakumari District, who both are agreed their Mediator. After encashment of the above said first cheque, the petitioner should hand over the cheque transaction power with regarding Siva Petroleum in favour to the 3rd respondent till completion of the BPCL process in favour of the 3rd respondent.

(3) After completion of Bank and BPCL partnership process in favour of 3rd respondent as per partnership deed registered as Doc.No.214/17 dated 11.10.2017 executed before the District Registrar, Kanyakumari, the petitioner can received the cheque for a sum of Rs.40,00,000/- (Rupees Forty Lakhs) bearing No.047175 dated 22.05.2019 from the above mentioned Mediator with consent of 2nd respondent and executed the sale deed in favour of 2nd respondent or his authorized person immediately after encashment of the said cheque. On the same date of sale deed, the petitioner withdraw his partnership from Siva Petroleum by way of registered deed. The 2nd respondent authorizing the 3rd respondent to run the said Siva Petroleum, any document required in future, the petitioner fully co-operate and ready to submit it. Any dispute arose between the respondents 2 and 3 with BPCL in future, that should not bind the petitioner and he should not liable for anything."

4. In view of the compromise entered between the parties, this Court is inclined to grant anticipatory bail to the petitioner. 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.I, 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 the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:



(a) the petitioner shall file an affidavit after furnishing the table and chair to the hospital before the learned Magistrate and the learned Magistrate may obtain a copy of the affidavit and his Aadhar card to ensure his identity;

(b) the petitioner shall report before the respondent police as and when required for interrogation.

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

(e) the petitioner 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 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]**; and;

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

sd/-
26/02/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE NO.I, NAGERCOIL.

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

3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KANYAKUMARI DISTRICT AT NAGERCOIL

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

+1 CC to M/s.B.ANANDAN, Advocate (SR-3778[I] dated 26/02/2019)
+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-3820[I] dated 26/02/2019)
+1 CC to M/s.K.P,NARAYANAKUMAR, Advocate (SR-3869[I] dated
27/02/2019)

ORDER
IN
CRL OP(MD) No.19533 of 2018
Date :26/02/2019

IAS