



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

Tuesday, the Eighth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL.O.P. (MD) No.21163 of 2018

and

CRL.M.P (MD) No.10167 of 2018

1 SARAVANAKUMAR

2 VANITHARANI

... PETITIONERS / ACCUSED
RANK NOT KNOWN

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI DISTRICT.
CRIME NO.58 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioners: Mr.S.SUKUMAR, Advocate

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

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

ORDER : The Court Made the following order :-

The petitioners apprehend arrest at the hands of the respondent police for the offences punishable under Sections 120 (b), 406 and 420 IPC in Cr.No.58 of 2018 seek anticipatory bail.

2. The petitioners are A2 and A3 in this case. The case of the prosecution is that the *de facto* complainant is the General Manager of State Bank of India, Siruthozhil Branch, Theni District and lodged a complaint that one Balakrishnan (A1), who is the proprietor of Sri Krishna Dairy at Theni District, availed a short term loan with State Bank of India, Siruthozhil Branch, Theni District, to the tune of rupees more than One Crore during January, 2017. Initially, A1 paid monthly repayments for a period of three months. Thereafter, monthly repayments were not made. Hence, the petitioners became defaulters. The Manager of State Bank of India, Siruthozhil Branch, Theni District, inspected the premises and found that the machineries in the premises have been sold out and A1 was not available. Thereafter, the Manager of State Bank of India, Siruthozhil Branch, Theni District, proceeded against the borrower



as well as the guarantors. A2 and A3, who are the petitioners herein are the close relatives of A1 and they stood as guarantors.

3. The contention of the petitioners is that though the petitioners are close relatives of A1, they have nothing to do with the business of A1. The petitioners have stood as guarantors only and their properties have been kept as security with the *de facto* complainant bank. On default of A1, SARFESAI notice was issued to the petitioners and SARFESAI proceedings were initiated. The petitioners are willing to make payments proportionate to their liability. Further, A1 has already paid a sum of Rs.30,00,000/- to the credit of loan account. The learned counsel appearing for the petitioners further submits that they have nothing to do with the sale of machineries by A1 in this case.

4. The learned counsel appearing for State Bank of India submits that the petitioners are close relatives of A1. They have jointly sold the machinery, which was hypothecated to the Bank.

5. Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Crl. Side) and the learned counsel appearing for State Bank of India.

6. Taking into consideration the facts of the case and the submissions by learned counsel, this Court inclined to grant anticipatory bail to the petitioners.

7. Accordingly, 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 the date of receipt of a copy of this order, before the learned Judicial Magistrate, Theni, on condition that each of 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 said Magistrate, on further conditions that:

[a] if the petitioners fail 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 daily at 10.30 a.m., for a period of two weeks and thereafter 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 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]**.



[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

Consequently, connected Miscellaneous Petition is closed.

WEB COPY

sd/-
08/01/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE, THENI.
 2. DO-THROUGH 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 MrR.MOHANSUNDARAM, Advocate SR.No.461

ORDER
IN
CRL OP (MD) No.21163 of 2018
and
CRL.M.P (MD) No.10167 of 2018
Date :08/01/2019

MS/VR/SAR-1/22.01.2019/3P.6C