

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.9942 of 2019

1. Manikandan,
2. Swamynathan, ... Petitioners/Accused 2 & 3

Vs

The Inspector of Police,
CCB, Tirunelveli City,
Tirunelveli District. ... Respondent/Complainant

For Petitioner : M/s.S.C.Herold Singh,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No. 13 of 2019 on the file of
the Respondent police

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the
respondent police for the offences punishable under Sections 406,
418 and 420 I.P.C, in Crime No.13 of 2019, seek anticipatory bail.

2.The learned counsel appearing for the petitioners has
submitted that the petitioners are innocents and due to business
dispute between the defacto complainant and 1st accused, they have
been falsely implicated in this case. In this case, the 1st accused
was already arrested and released on bail by the Sessions Court on
06.07.2019 and the petitioners are A-2 and A-3 and they are in no
way connected with the alleged business. He further submitted that
A-4 and A-5 were already granted anticipatory bail by this Court in
CRL.O.P.(MD).No.7962 of 2019, dated 27.06.2019. Hence, he prayed
for grant of anticipatory bail to the petitioners.

3.Per contra, learned Additional Public Prosecutor appearing for the respondent has submitted that the 1st accused along with their family members have already been running a Ghee business and for the purpose of developing their business only, the 1st accused used the defacto complainant and received huge amounts from him by giving a false promise that it is a partnership business. He further submitted that since the petitioners are relatives of the 1st accused, they may indulge in tampering of the witnesses. Hence, he oppose this anticipatory bail petition. However, he fairly conceded that the first accused was already released on bail by the Sessions Court on 06.07.2019 and no previous case is pending against the petitioners.

4.A perusal of the FIR shows that the defacto complainant has paid huge amounts only to the 1st accused and the document which has been produced by the learned counsel for the defacto complainant in CrI.O.P.(MD).No.7962 of 2019 also would show that the first accused alone gave an undertaking that he will repay the amount and nothing has been whispered against the petitioners herein in the FIR. Further, the first accused was already arrested and released on bail by the Sessions Court on 06.07.2019 and A-4 and A-5 were already granted anticipatory bail by this Court in CrI.O.P.(MD). No.7962 of 2019, dated 27.06.2019.

5.Taking into consideration of the facts, this Court is inclined to grant anticipatory bail to the petitioners by imposing certain conditions.

6.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 No.1, Tirunelveli on condition that the petitioners shall each 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] if the petitioners fail to surrender before the concerned Magistrate within a period of 15 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 three weeks and thereafter, as and when required for the 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
18/07/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
TIRUNELVELI
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI
- 3 THE INSPECTOR OF POLICE,
CCB, TIRUNELVELI CITY,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.S.C.HEROLD SINGH Advocate SR.No.11967

ORDER
IN
CRL OP(MD) No.9942 of 2019
Date :18/07/2019