



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/08/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.10511 of 2019

Senthilprabhu, ... Petitioner/Accused No.2

Vs

State rep by
The Inspector of Police,
S.S. Colony Police Station,
Madurai District. Crime No. 561 of 2019.
... Respondent/Complainant

Vijayakumar ... Intervene petitioner/
defacto Complainant

For Petitioner : M/s.A.Balaji,
Advocate.
For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor
For Intervenor : MR.S.Mahesh Babu,

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

PRAYER :-

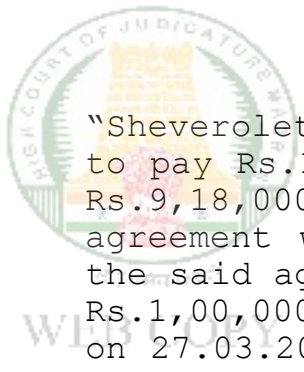
For Anticipatory Bail in Crime No. 561 of 2019 on the file of
the Respondent Police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the
respondent police for the alleged offences punishable under Sections
420, 294(b) and 506(i) of IPC in Crime No.561 of 2019, on the file
of the respondent Police seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is the
owner of Car. The defacto complainant has agreed to purchase one

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



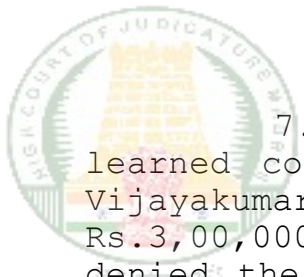
"Shevrolet Cruze" model car for Rs.9 lakhs and for that, he agreed to pay Rs.18,000/- as commission. Accordingly, he has agreed to pay Rs.9,18,000/- as total sale consideration within a week and the said agreement was reduced into writing on 22.03.2017. On the date of the said agreement itself, the defacto complainant has paid a sum of Rs.1,00,000/- by way of a cheque to the petitioner. Subsequently, on 27.03.2017, the defacto complainant has paid another sum of Rs.1 lakh by way of a cheque and on 06.04.2017, he has paid another sum of Rs.1 lakh by way of cheque. Thus, totally, he has paid Rs.3,00,000/- to the petitioner. Subsequently, the defacto complainant approached the petitioner with remaining amount and demanded registration of the car. For that, the petitioner criminally intimidated him and also refused to repay the sum. Against which, a case was registered against the petitioner under Sections 420, 294(b) and 506(i) of IPC in Crime No.561 of 2019.

3.The learned counsel for the petitioner has submitted that since the defacto complainant has failed to pay the balance amount within 7 days, as agreed by him, the petitioner has sold the said vehicle to some other person. He further submitted that the petitioner has repaid the said amount to the credit of one Ragupathi, at the request of the defacto complainant and therefore, the petitioner has not committed any offence. Therefore, he prayed to grant anticipatory bail to the petitioner.

4.The learned counsel for the defacto complainant/intervenor has submitted that the intervenor is not having any friend in the name of Ragupathi and he has not received any instructions from the petitioner to pay the said amount to the account of the said Ragupathi and therefore, he prayed to dismiss the petition.

5.The learned Additional Public Prosecutor has submitted that one Ragupathi was examined by the Inspector of Police and the said Ragupathi gave a statement stating that the defacto complainant is known to him and he is doing Real Estate business and for his business, he has received a sum of Rs.3,00,000/- from him and subsequently, he made a demand to repay the said amount and at that time, he instructed the petitioner herein to pay the amount and accordingly, the petitioner herein has paid Rs.2,00,000/- through cheque and the balance amount of Rs.1,00,000/- is due to be paid by the defacto complainant.

6.The learned counsel for the petitioner by way of reply has submitted that in the petition filed by the intervenor, he has stated that the said Ragupathi is not known to him. But the intervenor has issued a cheque to the said Ragupathi on 06.01.2017 for Rs.3,00,000/- and he also produced a xerox copy of the said cheque.



7.A perusal of copy of copy of the cheque produced by the learned counsel for the petitioner shows that on 06.01.2017, one Vijayakumar has issued a cheque in favour of one Ragupathi for Rs.3,00,000/-. Though the learned counsel for the intervenor has denied the said transaction, the statement which was given by the said Ragupathi before the Police shows that the defacto complainant is already known to the said Ragupathi and he has issued a cheque for Rs.3,00,000/- to the said Ragupathi. Further, the learned counsel for the petitioner has submitted that as per the agreement entered between the defacto complainant and the Car Dealer, if the amount is not paid within 7 days, the car dealer is entitled to forfeit Rs.1 lakh from the advance amount and accordingly, the car dealer forfeited the said amount. But in the petition filed by the petitioner, he has not stated that the car dealer has forfeited any amount. On the contrary, he has stated that he has repaid the said amount to the said Ragupathi. However, he has submitted that the petitioner will deposit a sum of Rs.50,000/- without prejudice to his defence.

8.Considering the same, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions:-

9.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or 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.V, Madurai 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 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 petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b]Before executing the bail bond, the petitioner shall deposit a sum of Rs.50,000/- (Rupees fifty thousand only) to the credit of Cr.No.561 of 2019, before the learned Judicial Magistrate, No.V, Madurai, without prejudice to his defence;

[c]the petitioner 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.

[d]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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
26/08/2019

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

TO

1. THE JUDICIAL MAGISTRATE, NO.V, MADURAI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
3. THE INSPECTOR OF POLICE,
S.S. COLONY POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.S.MAHESH BABU, Advocate Sr. No.14068
+1CC TO MR.A.BALAJI, Advocate Sr. No. 14042

ORDER
IN
CRL OP(MD) No.10511 of 2019
Date : 26/08/2019

TR/PN/SAR-II (04.09.2019) 4P 7C