

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.11168 of 2019

1.Murugesan
2.Shanmugasundaram

... Petitioners/Accused
No.1 and 2

Vs

Stâte rep by
The Inspector of Police,
District Crime Branch,
Theni District.
Crime No.13 of 2019.

... Respondent/Complainant

For Petitioners : M/s.A.Banumathy,
Advocate.

For Respondent : Mrs.M.Anantha Devi,
Government Advocate (Crl.Side)

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

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 and 420 of IPC, in Crime No.13 of 2019, seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that due to money transaction, the defacto complainant has lodged a false complaint as if the petitioners have cheated the defacto complainant by giving false promise that they will make arrangements for getting job and received a sum of Rs.2,00,000/-.

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

She further submitted that with regard to the aforesaid transaction, already the petitioners herein have filed a suit in O.S.No.5281 of 2017 before the City Civil Court, Chennai and the same is still pending. She further submitted that even in the FIR, the defacto complainant has admitted that he has received a sum of Rs.25,000/- by cash and issued one cheque for Rs.25,000/-. She further submitted that without prejudice to the contention of the petitioners, the petitioners are willing to deposit a sum of Rs.25,000/- before the concerned Magistrate Court and therefore, he prayed to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police has submitted that the petitioners by giving false promise that they will make arrangements for getting job, received a sum of Rs.2,00,000/- from the defacto complainant and subsequently, they did not repay the same and hence, the defacto complainant has lodged a complaint before the respondent police, Theni on 17.07.2019 and thereafter, the petitioners have paid a sum of Rs.25,000/- by cash and also issued a cheque of Rs.25,000/- and balance amount of Rs.1,50,000/- to be paid by the petitioners and therefore, he strongly opposed this petition.

5.Taking into consideration of the fact that already the petitioners have paid a sum of Rs.25,000/- by cash to the defacto complainant and also issued a cheque for Rs.25,000/- and also submission made by the learned counsel for the petitioners that the petitioners are willing to deposit a sum of Rs.25,000 to the credit of Crime No.13 of 2019 before the concerned Magistrate without prejudice to their defence, 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, Theni, on condition that 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 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:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners jointly shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of Crime No.13 of 2019 before the learned Judicial Magistrate, Theni, without prejudice their defence before the trial Court;.

(iii) 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 before the respondent police for interrogation.

(iv) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioners shall not abscond either during investigation or trial.

(vi) 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].

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

sd/-
28/08/2019

/TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE,
THENI.
- 2.THE CHEIF 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 M/S.A.BANUMATHY Advocate SR.No.14289

ORDER
IN
CRL OP(MD) No.11168 of 2019
Date :28/08/2019

TK/VR/SAR.3/30.08.2019/3P/6C