

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Tenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.5471 of 2020

K.SELVAKUMAR

[PETITIONER / ACCUSED]

Vs

STATE REP.BY ITS

[RESPONDENT]

STATION HOUSE OFFICER,
NEYVELI TOWNSHIP POLICE STATION,
CHENNAI.
CR.NO.62/2020.

For Petitioner : M/S.DASS AND VISWA ASSOCIATES Advocate

For Respondent : MR.S.THANKIRA Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

- 1.The Petitioner herein, apprehending arrest at the hands of the Respondent Police, for having allegedly committed the offences punishable under Sections 420 and 506(i) of IPC read with Sections 3 and 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, in Cr.No.62 of 2020, has filed this Criminal Original Petition, under Section 438 of Cr.PC, seeking anticipatory bail.
- 2.The facts of the case of the Prosecution as per the defacto complainant are that the defacto complainant had received loan amounts of Rs.10,000/- and Rs.90,000/-from the Petitioner and towards security of the loan amount of Rs.90,000/-, the Petitioner had received unfilled promissory notes and cheques and the defacto complainant had been paying interest at the rate of 10% to the tune of Rs.10,000/- p.m. and has repaid an amount of Rs.1,80,000/-. Whereas the Petitioner had filed a suit in OS.No.02 of 2019, claiming a sum of Rs.5 lakhs and later, the case was settled out of court for an amount of Rs.2 lakhs. Even thereafter, the Petitioner had threatened the defacto complainant. Hence, the Petitioner has been implicated as an accused in the case on hand.
- 3.This court heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondent and also perused the materials placed before this Court.
- 4.According to the learned counsel for the Petitioner, the defacto complainant had taken a loan of Rs.2 lakhs from the Petitioner, by executing a promissory note and given other security documents.

Since he failed to pay the loan amount, the Petitioner had filed OS.No.02 of 2019 on the file of the Sub Court, Neyveli, wherein, after several hearings, the defacto complainant came for a settlement and the settlement was arrived at for a sum of Rs.2 lakhs as full and final settlement and he has also relinquished the claim over the interest and even though the suit was settled out of Court, the present complaint has been filed falsely against the the Petitioner. As on date, the Petitioner does not have any claim against the defacto complainant and he is also prepared to file necessary affidavit regarding the same. The Petitioner would abide by any conditions to be imposed by this Court for enlarging the Petitioner on anticipatory bail.

5. The learned Government Advocate would submit that the defacto complainant had borrowed an amount of Rs.90,000/- and he had paid exorbitant interest and paid three times more than the principal amount and thereafter, the Petitioner had filed a suit and received an amount of Rs.2 lakhs as full settlement and would oppose for granting anticipatory bail to the Petitioner.
6. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail in favour of the Petitioner, however, on stringent conditions. Accordingly, the Petitioner is hereby ordered to be released on anticipatory bail, in the event of his arrest or on his appearance before the District Munsif Cum Judicial Magistrate, Neyveli, within 15 days from the date of receipt of a copy of this order and further on the Petitioner complying with the following conditions, without fail:-
 - i. If the Petitioner fails to surrender before the District Munsif Cum Judicial Magistrate, Neyveli, within a period of 15 days, from the date of receipt of a copy of this order, this order shall stand automatically cancelled, without any further reference to this Court.
 - ii. 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 District Munsif Cum Judicial Magistrate, Neyveli. The sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.
 - iii. The Petitioner shall also file an affidavit of undertaking to the effect that he has no claim against the the defacto complainant.
 - iv. The Petitioner shall report before the Respondent Police, daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required, until further orders.
 - v. The Petitioner shall not abscond either during the investigation or the trial. The Petitioner shall not tamper with evidence or witness, either during the investigation or the trial.

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 is released on bail, by the concerned Trial Court itself, as laid down in the decision of the Honourable Supreme Court reported in **2005 AIR SCW 5560 (P.K.Shaji Vs. State of Kerala)**.

- vii.If the Petitioner, thereafter, absconds, a fresh First Information Report shall be registered, under Section 229A of IPC.

-sd/-
10/03/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, NEYVELI

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
NEYVELI TOWNSHIP POLICE STATION,
CHENNAI.

+1CC to M/S.DASS AND VISWA ASSOCIATES Advocate on payment of
necessary charges SR.NO. 4777

WEB COPY

CRL OP.5471/2020

Date :10/03/2020

RD 13/03/2020