

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2020

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No. 9163 of 2020

Shahulhameed @ Sherif

... Petitioner

Vs.

State Rep. by
The Sub Inspector of Police,
DCB Ariyalur Police Station
Cr. No.12 of 2019

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of his arrest in
Crime No.12 of 2019 on the file of the respondent police.

For Petitioner : Mr.V.Arul

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioner who apprehends arrest at the hands of the
respondent police for the offences punishable under Sections 406, 420 of
IPC in Crime No.12 of 2019 seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused received a sum of Rs.2,00,000/- from the defacto complainant for getting store keeper job in Dubai. Thereafter, they did not arrange any employment to the defacto complainant and also did not return the amount. Hence the complaint.

3. The learned counsel for the petitioner would submit that there are two accused persons in which the petitioner is arrayed as A1. Though the petitioner is arrayed as first accused, the second accused is main person who received the entire amount from the defacto complainant. In fact, A2 arranged job at Dubai and the defacto complainant went to Dubai. Unfortunately, the victim without even waiting for employment he returned back to India. He further submitted that the defacto complainant also received cheques from the petitioner towards the return of money. Since the said cheques were returned and the petitioner is also facing prosecution under the Negotiable Instrument Act. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the defacto complainant paid a sum of Rs.2,00,000/- to the accused persons for getting job in Dubai. Thereafter, the accused persons did not get any employment to the defacto complainant and cheated the defacto complainant. Hence he vehemently opposed to grant anticipatory bail to the petitioner.

5. It is seen that the petitioner is arrayed as first accused and the second accused arrested and remanded to judicial custody. The petitioner along with other accused has received a sum of Rs.2,00,000/- to get a job in Dubai. Thereafter, they did not get any employment to the defacto complainant and also refused to return the money. Now the learned counsel for the petitioner is ready and willing to deposit 50% of the amount received by them.

5. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a sum of

Rs.1,00,000/- (Rupees one lakh only) to the credit of Crime No.12 of 2019, within a period of two weeks from the date on which the order copy made ready, and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate-I, Ariyalur, 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One lakh only) to the credit of Crime No.12 of 2019, before the concerned Magistrate, within a period of two weeks from the date on which the order copy made ready.

[c] the final order in respect of the said deposit shall be passed

by the learned trial Judge at conclusion of trial.

[d] the petitioner shall appear before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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]**.

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

22.06.2019

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

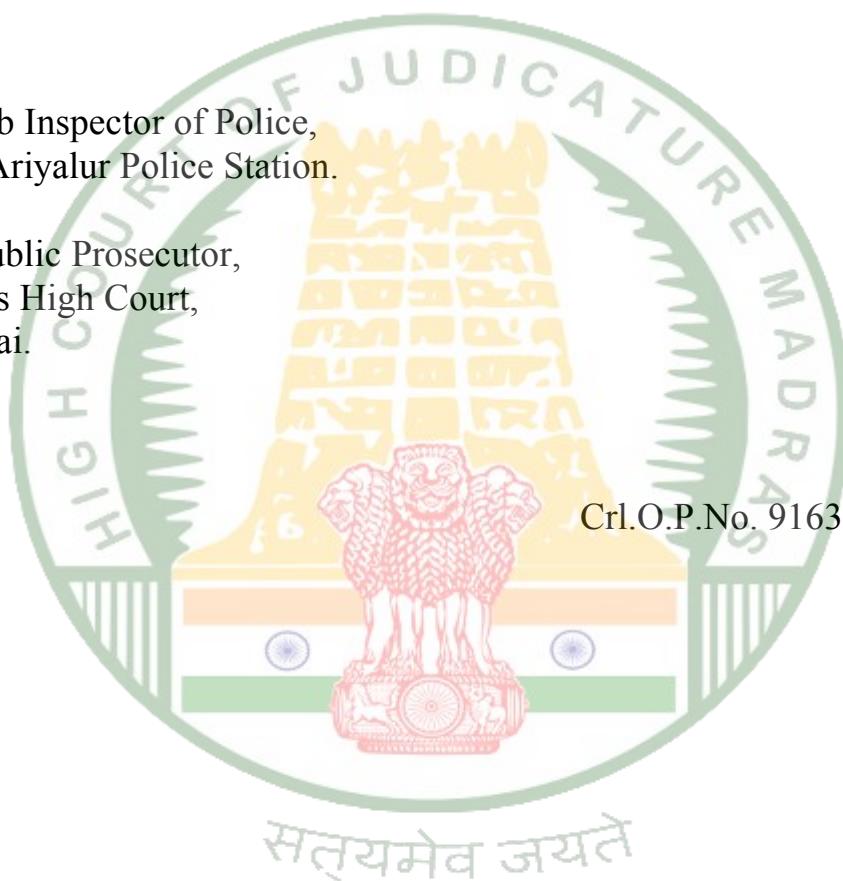
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G.K.ILANTHIRAIYAN, J

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To

- 1.The Sub Inspector of Police,
DCB Ariyalur Police Station.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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