

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 9591 of 2020

N.R.Krishnarao

... Petitioner/Accused-1

Vs.

State Rep. by

The Inspector of Police,
Central Crime Branch,
Salem City, Salem.

Cr. No.14 of 2019

... Respondent/Complainant

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.14 of 2019 pending investigation on the file of the respondent police.

For Petitioner : Mr.E.S.Appuswamy

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

O R D E R

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections section 120 (B), 406, 420 and 506(2) of IPC in Crime No.14 of 2019 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and another were engaged the de-facto complainant who is a silver smith for doing silver ornaments such as silver anklets. The petitioner and his son entrusted a silver bar to the de-facto complainant to make the silver ornaments as a job work. While that being so, at the time of doing the job work, the de-facto complainant is entitled to the wastage of silver while making ornaments and he is also entitled for charges. The de-facto complainant further alleged that the wastage of silver which is about 800 kg is said to have been accumulated over a period of 20 years and the same is cheated by the petitioner and his son. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner herein is arrayed as A1, who is aged about 90

years and his son as A2. They are engaged in the business of manufacturing silver anklets. The de-facto complainant was engaged to make the silver ornaments as anklets and etc. The job work was given to the de-facto complainant up to the year 2015 and thereafter the job work was stopped, since the petitioner found that the de-facto complainant is not trustworthy to hand over the silver ingots. Even according to the de-facto complainant, the 800 kg of wastage of silver for the past 20 years accumulated and the same was taken by the petitioner and his son without paying any money to the said wastages.

3.1. He further submitted that in fact, the petitioner's son was detained illegally by the police and obtained five cheques in favour of the defacto complainant under coercion and subsequently, the five cheques were presented for collection and all the cheques were returned and the petitioner's son is facing criminal prosecution under the Negotiable Instruments Act, on the file of the learned Judicial Magistrate No.3, Salem in S.T.C.Nos.3001, 3002, 3003 and 3005 of 2019. Therefore, the present complaint is only to threaten the petitioner. Hence, he seek for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner has engaged the de-facto complainant for doing job work in silver ornaments such as anklets etc., due to which the petitioner's son has to pay the making charges and also the wastage charges to the de-facto complainant as undertaken by him. While taking the wastages from the de-facto complainant, the petitioner's son has undertaken to pay the amount and now it accumulated upto 400 kgs and it is worth about Rs.1,40,00,000/-. Thereby the petitioner cheated the de-facto complainant and also threatened him with dire consequences, while demanding to return the money. He further submitted that the petitioner's son also issued five blank cheques for the part payment of the said amount and all the cheques were returned as dishonored and the petitioner's son is facing criminal prosecution under the Negotiable Instruments Act. He further submitted that the petitioner is none other than his own father. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. It is also seen that even according to the de-facto complainant for the past 20 years, he did not claim anything and now he lodged the complaint and therefore there was an enquiry, in which the petitioner's son issued five cheques in favour of the de-facto complainant. Due to dishonor of those cheques, he is now facing criminal prosecution under the Negotiable Instruments Act, on the file of the learned Judicial Magistrate No.3, Salem in S.T.C.Nos.3001, 3002, 3003 and 3005 of 2019.

6. Considering the above fact and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.3, Salem, 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 report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

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

[d] the petitioner 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 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]**.

[f] If the accused thereafter abscond/s, a fresh FIR can be registered under Section 229A IPC.

-sd/-
29/06/2020

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 JUDICIAL MAGISTRATE NO.3,
SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM.[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS.

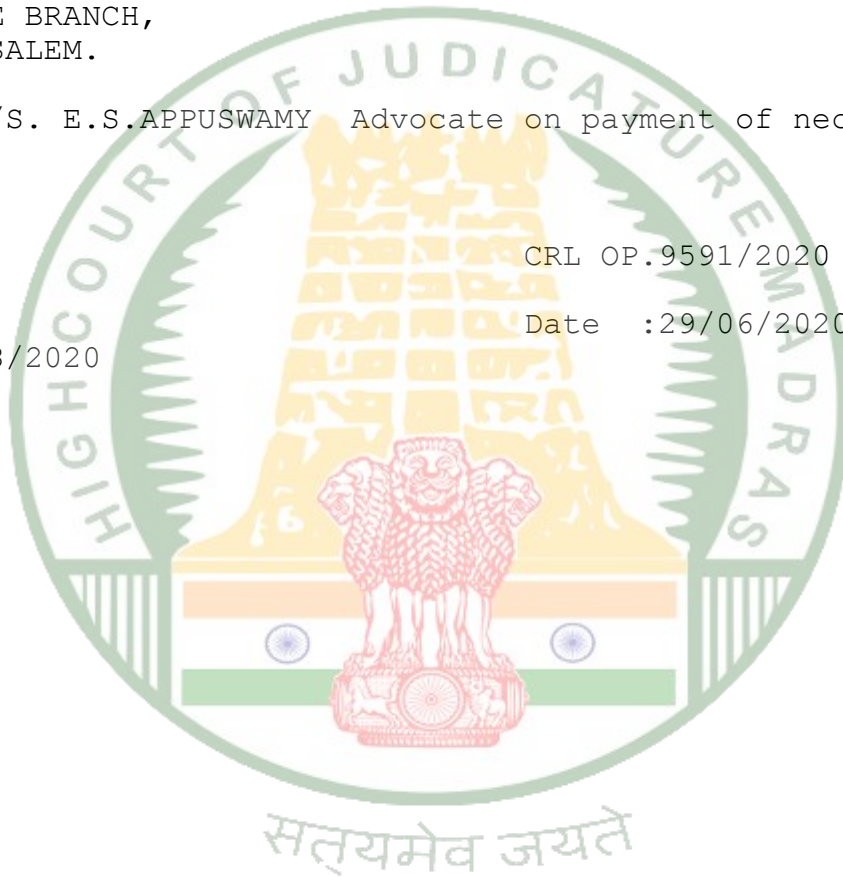
4 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
SALEM CITY, SALEM.

CC to M/S. E.S.APPUSWAMY Advocate on payment of necessary
charges

CRL OP.9591/2020

Date :29/06/2020

GKS (CS) :03/08/2020



WEB COPY