

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.11888 of 2020

Nazar

... Petitioner

Vs.

The State Represented by, ... Respondent

The Inspector of Police,

District Crime Branch,

Dharmapuri,

Dharmapuri District.

(Crime No.7 of 2020)

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to grant Anticipatory bail to the petitioner in the event of his arrest by the respondent police in Crime No.7 of 2020 on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

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

ORDER

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 342, 506(i) of IPC and r/w 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act 2003 in Crime No.7 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant and his family members approached the petitioner and availed a loan of Rs.96,00,000/- by executing an agreement and agreed to repay the amount as and when demanded. Thereafter, the petitioner demanded exorbitant interest. Hence the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and a false case has been foisted against him. The learned counsel for the petitioner submitted that when the petitioner approached the defacto complainant to repay the loan amount, the defacto complainant issued a cheque and when the said cheque was presented for encashment, the same was returned by the bank with and endorsement "payment stopped by Drawer on 18.03.2020". Thereafter, the petitioner approached the defacto complainant and asked him to settle the outstanding dues. Instead of settling the dues, the defacto compliant abused the petitioner in filthy language and also give a false complaint. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the defacto complainant and his family members approached the petitioner and availed a loan of Rs.96,00,000/- by executing an agreement and agreed to repay the amount as and when demanded. Thereafter, the petitioner demanded more interest than what was agreed. He further submitted that the petitioner also filed a private compliant under Section 138 of NI Act, before the learned Judicial Magistrate No.I, Dharmapuri. He further submitted that there are no previous cases pending against this petitioner and also submitted that the investigation is still pending. However, he opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and submissions of the learned Counsel and the fact that the injured has been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, **within a period of fifteen after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier**, before the **learned Judicial Magistrate No.I, Dharmapuri**, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with two sureties, 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., until further orders.

[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, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

06/08/2020

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.I,
DHARMAPURI.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
DHARMAPURI,
DHARMAPURI DISTRICT.

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

CRL OP.11888/2020

Date :06/08/2020

TA-21/09/2020

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