

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.14206 of 2020

S.Elavarasan

... Petitioner

Vs.

State Rep. by,
The Inspector of Police,
Cuddalore OT Police Station,
Cuddalore District.
(Crime No.1270 of 2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioner on bail in the event of apprehending arrest in the Crime No.1270 of 2020 on Inspector of Police, Cuddalore OT Police Station, Cuddalore District.

For Petitioner : Mr.P.Muthamizhselvakumar

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

O R D E R

(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 420 and 506(ii) of IPC, in Crime No.1270 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant one viz., Balamurugan is that the petitioner borrowed a sum of Rs.3,00,000/- from him with a promise to repay the amount with interest and also issued a cheque bearing No.146708 for security purpose. As the petitioner did not return the money, the de-facto complainant presented the cheque for collection. However, it was returned by the Bank stating that the signature does not tally and thereby, the petitioner has cheated the de-facto complainant. Hence the complaint.

3. The learned counsel for the petitioner would submit that a simple case of borrowal has been projected as a case of cheating. He would submit that the petitioner has admitted that he has issued a cheque bearing No.146708 to the de-facto complainant. The petitioner has also filed an affidavit dated 17.09.2020 stating that he had issued the said cheque and he also does not deny the signature in the cheque. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The relevant paragraph No.5 of the said affidavit is extracted hereunder:

" 5. I state that, at the time of borrowing the loan I had issued the cheque an pro-note to the defacto complainant for the security purpose. Further at the time of the issuance of the said cheque leaf and pro-note I had duly signed as well fill up the cheque ICICI Bank bearing No.146708 and pro-note properly. Latter it came to know that the cheque was returned by the banker as signature differs, I had admitted that I had issued the cheque bearing No.146708 duly signed by me and it was returned as above said reason however I will handle this to the appropriate Court of law respectively."

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has issued the said cheque purposely altering his signature to cheat the de-facto complainant. Hence, he opposed to grant anticipatory bail to the petitioner.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner is prepared to contest the case filed under Section 138 of Negotiable Instruments Act.

7. Considering the above facts and circumstances of the case, the affidavit of the petitioner is inclined to grant anticipatory bail with certain conditions:

8. Accordingly, the petitioner is directed to be released on bail in the event of her arrest or on her appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate Court No.II, Cuddalore, on condition that the petitioner shall execute a separate 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 everyday at 10.30 a.m., for a period of two weeks and thereafter, every Monday 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 absconds, a fresh FIR can be registered under Section 229A IPC.

9. With the above directions, this Criminal Original Petition is ordered. The affidavit filed by the petitioner dated 17.09.2020 shall form part of the Court's record.

-sd/-

18/09/2020

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.II, CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
CUDDALORE OT POLICE STATION,
CUDDALORE DISTRICT.

CC to M/S. P.MUTHAMIZHSELVAKUMAR Advocate on payment of necessary charges

CRL OP.14206/2020

Date :18/09/2020

RVR 01/10/2020