

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.14383 of 2020

Bapeen Leo Josph

...Petitioner

Vs.

State rep by
Sub-Inspector of Police,
Thirupathur Town,
Vellore District.
(Crime No.243 of 2019)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioner on anticipatory bail in the event of arrest by the respondent police in Crime No.243 of 2019 on the file of the respondent police.

For Petitioner : M/s.M.R.Thangavel

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 Section 417 and 420 of IPC, has filed this petition, seeking anticipatory bail.

2. The case of the prosecution is that the defacto complainant has taken a loan of Rs.10,00,000/- from Karur Vysya Bank based on the quotation issued by the petitioner/accused for the supply of machineries whereas the accused did not supply machineries for six years, stating that the raw materials were not available, he repaid the amount of Rs.5,50,000/- by way of three instalments and later by delivering a used machine worth of Rs.2,10,000/- cheated the defacto complainant. Hence this case.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and has been falsely implicated in this case. He would further submit that it is true that the defacto complainant has taken a loan Rs.10,00,000/- from Karur Vysya Bank based on the quotation issued by the petitioner. . Due to non-availability of raw materials, the petitioner was not able to supply the machine to the defacto complainant and thereby the defacto complainant along with rowdy elements demanded to return money instead of the machine. The petitioner has thereby repaid the amount of Rs.5,50,000/- to the defacto complainant by way of three

instalments. He would further submit that the defacto complainant also filed a petition before the District Consumer Court, Vellore and it is still pending. He would further submit that the defacto complainant has totally suppressed the fact and lodged a false complaint against the petitioner. He would further submit that it was the intention of the defacto complainant to cheat the bank and get back the full loan amount of Rs.5,50,000/- and thereby after the loan was sent to the account of the petitioner, the defacto complainant forced the petitioner to return Rs.5.50 lakhs by threatening with rowdy elements and the amount was transferred through RTGS to the defacto complainant. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that the petitioner had taken loan from the Karur Vysya Bank for starting industry. Based on the quotation issued by the petitioner, Karur Vysya bank had sent the loan directly to the petitioner. The petitioner did not supply the machinery and later had returned the part of amount of Rs.5.5 Lakhs to the defacto complainant straightaway and later supplied the used machine and thereby cheated the defacto complainant. He would further submit that the investigation is pending.

5. This Court perused the document and materials available on record and taking in to consideration of the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate - I, Thirupathur, on condition that each 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., on every Monday and Friday for a period of two months at 10.30 a.m., and thereafter as and when required.

[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 petitioners 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/-

16/09/2020

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.I, THIRUPATHUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 SUB - INSPECTOR OF POLICE,
THIRUPATHUR TOWN,
VELLORE DISTRICT

CC to M/S. M.R. THANGAVEL Advocate on payment of necessary charges

सत्यमेव जयते CRL OP.14383/2020

Date :16/09/2020

RVR 30/09/2020

WEB COPY