

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.15035 of 2020

J.Muthupandi

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
District Crime Branch,
Namakkal Police Station,
Namakkal.

Crime No.14 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Crime No.14 of 2020 on the file of the District Crime Branch, Namakkal.

For Petitioner : M/s.A.L.Ganthimathi

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 alleged offences punishable under Sections 406 and 408 IPC, in Crime No.14 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Kesava Pandian is that, he is the proprietor of textile company in the name of M/s.Nature Touch Clothing Pvt., Ltd., Thiruchengodu, and exporting textiles to foreign countries. In order to improve the business, he obtained loan from the accused bank in the year 2016 and totally Rs.4 crores was sanctioned to him. Thereafter, due to demonetization, he was unable to repay the loan installments regularly. The petitioner, who is the Assistant Branch Manager of City Union Bank, Tiruchengode, along with the

Writer and Branch Manager of the Bank, without the consent of the defacto complainant, had sanctioned a sum of Rs.13,80,000/- and improperly withdrawn a sum of Rs.1,40,000/- and Rs.5,45,000/- from the account of the defacto complainant, during the period between October 2019 to December 2019 and cheated him.

3. The learned Senior counsel appearing for the petitioner would submit that the petitioner is the Assistant Branch Manager of City Union Bank, Thiruchengode Branch and the defacto complainant had borrowed loan of Rs.4 Crores from the Bank, based on the deposit of documents. Further, as on date a sum of Rs. 4,60,22,916/- remains outstanding to be paid by the defacto complainant to the Bank. In order to harass the bank officials and to pre-empt them from taking recovery proceedings against him, the defacto complainant has given a false complainant against the petitioner as if he along with other officials had committed irregularities and misappropriated the amount from his account. He would also submit that the entire case of the defacto complainant has been borne out by the documents and the petitioner is ready to appear before the respondent police as and when required for investigation. He would further submit that the co-accused was released on bail by an order of this Court, dated 21.09.2020 in CrI.O.P.No.14740 of 2020.

4. The learned Additional Public Prosecutor would submit that, the defacto complainant is the customer of City Union Bank, holding an A/c.No.5120200015206 and in order to improve the business, he had obtained loan from the accused bank in the year 2016 and totally Rs.4 crores was sanctioned to him. He would also submit that the petitioner who is the Assistant Branch Manager had played an active role and by misusing his official position as Assistant Branch Manager had sanctioned additional loan without any proper application or requisition from the defacto complainant and withdrawn the amounts. He would further submit that on 12.10.2019 a sum of Rs.1,40,000/- was withdrawn from the account of the defacto complainant without any cheque or withdrawal form and further, on the basis of passing order by the petitioner and again on 24.12.2019, a sum of Rs.2,00,008/- was adjusted in the account of the defacto complainant without following proper procedure. During the relevant point of time the petitioner was the Assistant Branch Manager in Thiruchengode City Union Bank and he and the other officials are liable for all the irregularities and misappropriation. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Taking into consideration the facts and submissions of the learned Counsel, 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 arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned **Judicial Magistrate, Namakkal**, 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, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
24/09/2020

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,
NAMAKKAL.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

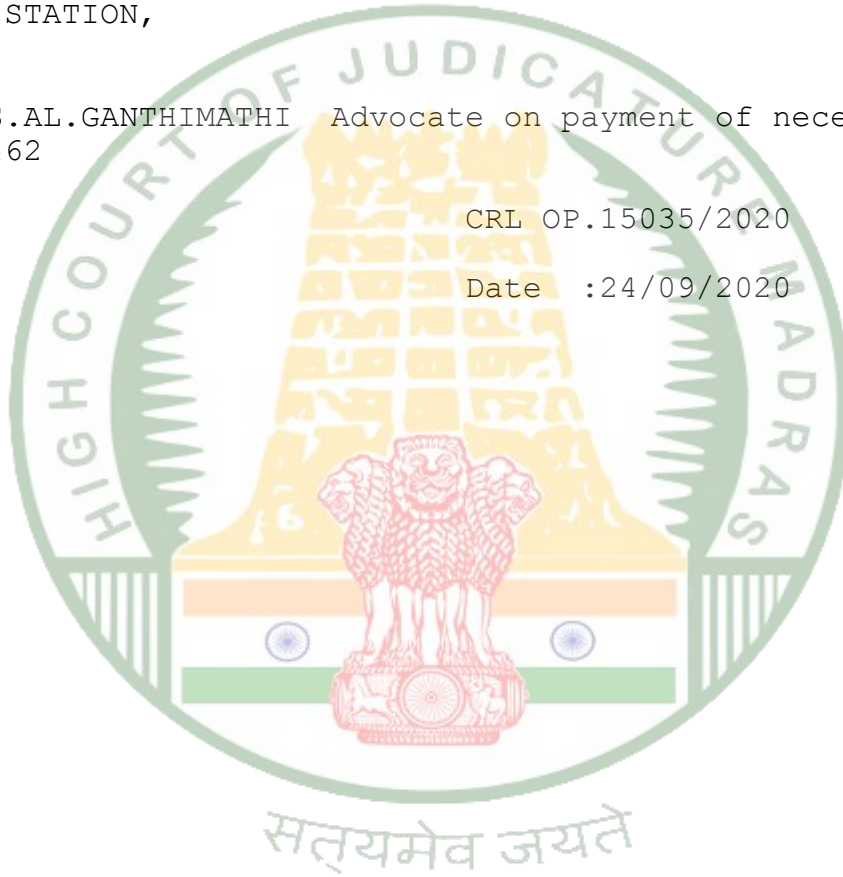
3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
NAMAKKAL POLICE STATION,
NAMAKKAL.

+1CC to M/S.AL.GANTHIMATHI Advocate on payment of necessary
charges SR NO.6462

CRL OP.15035/2020

Date :24/09/2020

MK:06/10/2020



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