

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.15350 of 2020

M.Sivakumar

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
District Crime Branch Coimbatore,
Coimbatore-641 035.
(DCB.Cr.No.16 of 2020) ...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Connection with the Crime No.16 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.G.Vairava Subramanian

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

ORDER

(This 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, 408, 420 r/w 34 of IPC, in Crime No.16 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., M.Murugesh is that he is running a partnership firm in the name of 'Maruthi Castings', at Senthampalayam Road, Masagoundan Chettipalayam, Coimbatore, and also engaged in the manufacturing of C.I Rough Castings and that the partnership firm was functioning from 15.09.2015 and that apart from the partnership firm, they have also got the other firms. While so, the 1st accused was introduced by

While so, on 07.08.2020, the defacto complainant received a call from certain mobile numbers threatening to pay amounts for bill numbers which were pending and the defacto complainant has called his Purchase Manager to verify the bill and on verification, it was found that the accused by fabrication of bills had without supplying the goods claimed an amount of Rs.30,00,000/- (Rupees Thirty Lakhs Only) from the company. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner had supplied iron scrap to the defacto complainant's company from the year May 2019 to July 2019 and all the scraps were supplied with proper GST invoices and an amount of Rs.78,75,950/- was outstanding from the company of the defacto complainant to the petitioner. Thereafter, the accounts were conciliated on 26.05.2020 and the defacto complainant had issued 18 post dated cheques for an amount of Rs.78,75,970/- and out of the 15 post dated cheques, the defacto complainant had cleared 3 post dated cheques for Rs.15,00,000/- and thereafter, 4 post dated cheques was presented for collection on 01.09.2020 and the same was returned unpaid stating reason "payment stopped by the drawer" and immediately after the return of the cheques, the defacto complainant has given a false complaint against the petitioner to preempt the petitioner from presenting the subsequent cheques and to evade payment. He would submit that only in order to cheat the petitioner, a false complaint has been given. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner, who is the supplier of castings material to the defacto complainant, in collusion with the staff of the defacto complainant without supplying the actual goods, had fraudulently claimed amounts to the tune of Rs.30,00,000/- (Rupees Thirty Lakhs Only). They have also cheated the defacto complainant by fabricating bills. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. On the earlier occasion, one Mr.Vasantha Nayagan sought time to file intervening application. Today, the learned counsel for the intervenor neither appeared nor has filed any intervening application so far.

5.Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

6.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;

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 (15) days from the date on which the copy of the order is made ready, before the learned Judicial Magistrate Court,

Mettupalayam, Coimbatore, 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 week 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.

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

-sd/-

04/11/2020

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 COURT,
METTUPALAYAM, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

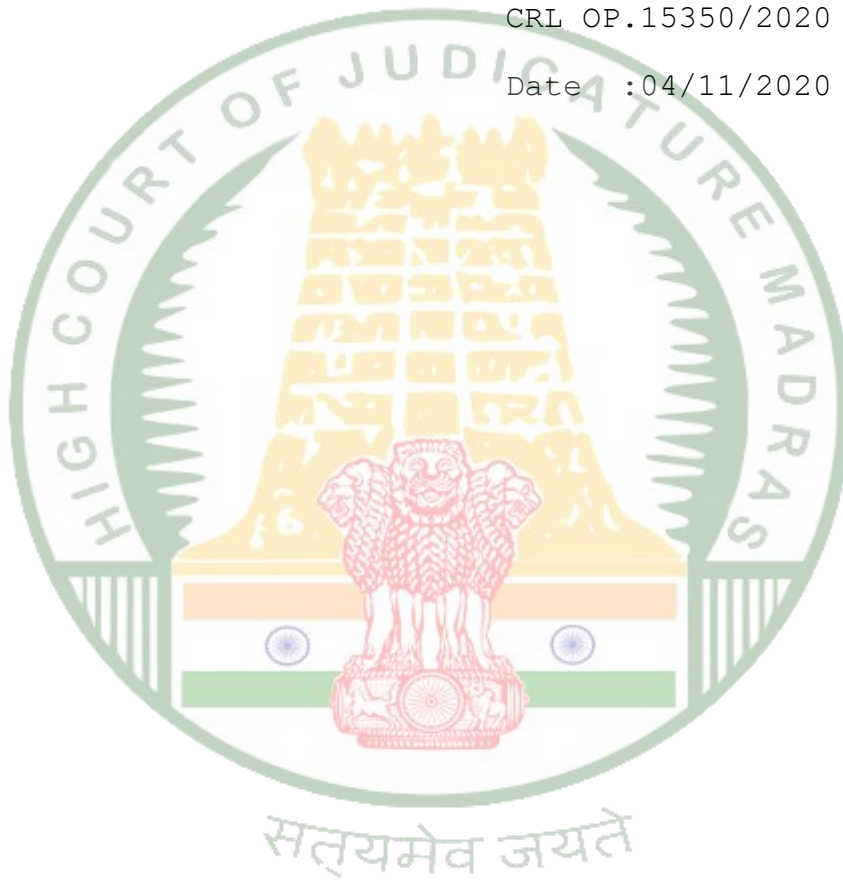
4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH COIMBATORE,
COIMBATORE-641035.

+1 CC to M/S. G.VAIRAVA SUBRAMANIAN Advocate on payment of
necessary charges SR.NO.7287

CRL OP.15350/2020

Date :04/11/2020

TA-18/11/2020



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