

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2020

CORAM:

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

Cr1.O.P.No.16955 of 2020

S.Shankar

... Petitioner

Vs.

State rep. by

The Inspector of Police,
Rangampalayam Taluk Police Station,
Erode.

Crime No.not known of 2020

... Respondent

PRAYER: This Criminal Original Petition has been filed under Section 438 of Cr.P.C., to release on bail in the event of his arrest by the respondent police in concern Cr.No.Now Known of 2020 on the file of the respondent police.

For Petitioner : Mr.A.T.Arun Kumar,

For Respondent : Mr.Charles Premkumar
Additional Public Prosecutor

For Intervenor : Mr.C.S.Saravanan

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 294 (b), 417, 506 (2) of IPC in Crime No. Not known of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that one Vijaya Kumari/defacto complainant borrowed a sum of Rs.7,00,000/- from the petitioner. When the petitioner demanded the said amount, she gave a cheque dated 01.10.2020. On presentation of the cheque, it got bounce for "insufficient fund". On 14.10.2020, a statutory notice to initiate the complaint under Section 138 of N.I.Act was issued. Meanwhile, the defacto complainant and her husband had filed a false complaint as if he had taken obscene photos of the defacto complainant and trying to extract money from the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and that he has been falsely implicated in this case. Hence, he seeks for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that the complaint given by Vijaya Kumari is under enquiry and no FIR has been registered.

5. The defacto complainant through her counsel intervenes the petition seeking anticipatory bail on the ground that the petitioner herein has friendly taken away the cheque and is trying to extract the money from her. The learned counsel appearing for the intervenor further submits that the obscene photos taken by the petitioner is not yet recovered from his possession.

6. The nature of the case appears that it is the case of money transaction between the petitioner and the defacto complainant. The cheque issued by the defacto complainant to the petitioner herein indicates that the defacto complainant after initiated the proceedings under Section 138 of the N.I.Act, has come out with a complaint against the petitioner herein.

7. This Court is of the view that it is sufficient if the petitioner cooperate with the investigation properly and custodial interrogation of the petitioner is not necessary. Therefore, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

[a] Accordingly, the petitioner is directed to be released on bail in the event of arrest or his appearance, within a period of fifteen days, before the learned Judicial Magistrate, Erode, 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 to the satisfaction of the learned Magistrate concerned, as the case may be.

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of 15 days and thereafter, as and when required for interrogation. Further, the petitioner shall cooperate with the investigation.

[d] the respondent police shall take note of the ingredient of the complaint and conduct proper investigation in this case and proceed the case in accordance with law.

[e] the petitioner shall not tamper the evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] On failure to comply the condition or 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
22/10/2020

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,
ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
RANGAMPALAYAM TALUK POLICE STATION,
ERODE DISTRICT.

+1 CC to M/S. A.T.ANBU KUMAR Advocate on payment of necessary charges SR.No.7046

CRL OP.16955/2020

Date :22/10/2020