



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 30/01/2020

PRESENT

WEB COPY

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.689 of 2020

1. Balasubramanian
2. Murugesan

... Petitioners/Accused No.2 and 3

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch, Nagercoil,
Kanyakumari District.
(Crime No.26/2019).

... Respondent/Complainant

M/s.Sundaram Finance Ltd.,
Rep. By its Branch Manager,
Mr.Mathavalan

... Petitioner/Defacto Complainant

For Petitioner : M/s. P.T. Ramesh Raja,
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

For Intervener : Mr.Pon Senthil Kumaran

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

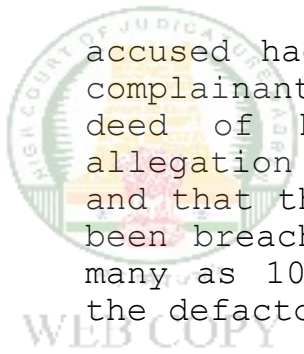
PRAYER :-

For Anticipatory Bail in Crime No. 26/2019 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners, the
learned counsel for the intervener and the learned Government
Advocate(Crl. Side) appearing for the respondent.

2. The petitioners apprehending arrest at the hands of the
respondent police for the offences punishable under sections 420,
467, 468 and 120(b) of I.P.C., in Crime No.26 of 2019 on the file of
the respondent police, seek anticipatory bail.



accused had borrowed a substantial sum of money from the defacto complainant. The petitioners herein have stood as a guarantors. A deed of hypothecation was also entered into. The specific allegation is that a sum of Rs.1,01,33,769/- is due and payable and that the terms and conditions of the deed of hypothecation have been breached. It appears that the first accused had purchased as many as 10 vehicles based on the financial assistance extended by the defacto complainant.

4.The learned counsel for the petitioners states that the issue is essentially civil in nature. The first accused is none other than the son of the first petitioner. The second petitioner is the brother of the first accused. The first accused had substantially cleared his loan liability and what remains to be cleared is only the 40% of the original loan liability. He submitted that the first petitioner is an illiterate and an aged person and the arrest of the first petitioner is not going to serve any purpose.

5.I am not persuaded by the submissions of the learned counsel for the petitioners. As rightly pointed out by the learned counsel for the intervener as well as the learned Government Advocate, after availing vehicle finance from the complainant company, on the strength of the same, transactions were entered into with two other finance companies later. They are IndusInd Bank and Equitas Bank. It is interesting to note that the petitioners herein have signed as guarantors in those two subsequent transactions also. The breach of trust committed, is evident on the very face of it. The amount involved is rather huge.

6.The petitioners obviously knew that when once vehicle is hypothecated to the finance company, without getting a No Objection Certificate, the assets cannot be hypothecated with another financier. That is the provision incorporated in the Motor Vehicles Act also.

7.The acts committed by the petitioners cannot be condoned. I do not therefore deem it to be a fit case for grant of anticipatory bail. Accordingly, this Criminal Original Petition is dismissed.

sd/-
30/01/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, NAGERCOIL,
KANAKARAI DISTRICT.



2 ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.S.PON SENTHIL KUMARAN, Advocate (SR-1960[I] dated
31/01/2020)

WEB COPY

ORDER

IN

CRL OP (MD) No.689 of 2020

Date :30/01/2020

pnn

MK/SKN/S-2 (10.02.2020) 3P-4C