



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 31/01/2020

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PRESENT

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

CRL OP (MD) .Nos.740 and 760 of 2020

CRL.OP (MD) NO.740 OF 2020:

I.SAMSUDEEN

... PETITIONER/ACCUSED NO.4

VS

STATE REP. BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUNELVELI DISTRICT,
CRIME NO.34 OF 2019.

... RESPONDENT/COMPLAINANT

SETHURAJ

... PETITIONER/DEFACTO COMPLAINANT

For Petitioner : M/s.P.Yasmin Begum,
Advocate.

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

For Intervener : Mr.V.Rajiv Rufus, Advocate

CRL.OP (MD) NO.760 OF 2020:

1. R.SRINIVASAN
2. RAJAMANI IYYAR
3. PRIYA

... PETITIONERS/ACCUSED NO.1,5 AND 6

VS

STATE REP. BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TIRUNELVELI
IN CRIME NO.34/2019.

... RESPONDENT/COMPLAINANT

SETHURAJ

... PETITIONER/DEFACTO COMPLAINANT



For Petitioner : M/s. K. Krishna,
Advocate.
For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)
For Intervener : Mr.V.Rajiv Rufus, Advocate

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

PRAYER :-

For Anticipatory bail in Crime No.34 of 2019 on the file of the Respondent Police

ORDER : The Court made the following order :-

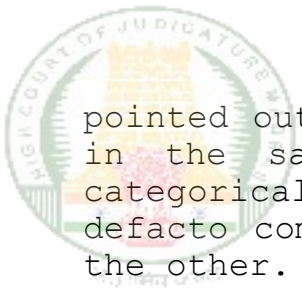
Heard the learned counsel appearing for the petitioner, the learned counsel for the intervener and the learned Government Advocate(Crl. Side) appearing for the respondent in both petitions.

2.The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 420, 406 and 120(b) of I.P.C., in Crime No. 34 of 2019 on the file of the respondent police, seeks anticipatory bail.

3.The case of the prosecution is that the accused procured paddy from the defacto complainant and did not pay the full value of the same. When I put a question as to whether it does not appear to be a commercial transaction or not, the learned counsel for the intervener pointed out that the first accused Srinivasan is having a case of the same nature registered in West Bengal. According to the intervener, the accused would source paddy from particular persons and not pay a portion of the consideration. According to the intervener, the loss suffered by him would be around Rs.20 Lakhs.

4.The learned counsel for the petitioners in Crl.O.P.(MD)No.760 of 2020 submitted that Srinivasan is only a broker and that he is not even having the full accounts. He would contend that the amounts were paid only from the account of Samsudeen to the defacto complainant.

5.On the other hand, the learned counsel appearing for the petitioner in Crl.O.P.(MD)No.740 of 2020 submitted that Samsudeen has nothing to do with the sale of paddy and that he only permitted the principal accused to use his TIN number and bank account for getting a commission amount. She drew my attention to the complaint given by the defacto complainant Sethuraj to the District Crime Branch, Tirunelveli on 07.06.2019. In the said complaint it has been mentioned that the accused 1,2 and 3 was introduced to the defacto complainant by one V.T.Mariappan and that he has sent paddy to the complainant and that they have committed default. She



pointed out that eventhough the petitioner's name is also mentioned in the said complaint, as a counter petitioner, it has been categorically stated that the transaction was only between the defacto complainant on the one hand and the accused nos.1 and 3 on the other.

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6.After hearing the rival contentions and the materials on record, I am satisfied that the petitioner in Crl.O.P.(MD)No.740 of 2020 /I.Samsudeen had only lent his name and TIN number for the purpose of facilitating the transactions. He does not appear to be the recipient of the goods from the defacto complainant. Since, Samsudeen is not having any previous case, I am inclined to grant anticipatory bail to Samsudeen. However, the said Samsudeen shall appear before the respondent police daily at 10.30 a.m., for a period of seven days.

7.I am satisfied that Rajamani Iyyar and Priya have been roped in the case only for the purpose of exerting pressure. The dealing was between Srinivasan, Subramanian, Murali Babu on one hand and the defacto complainant on the other. Therefore, the petitioners 2 and 3 in Crl.O.P.(MD)No.760 of 2020 are also granted anticipatory bail.

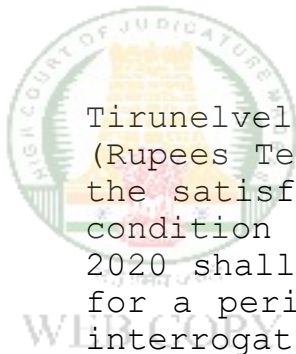
8.Coming to the case of Srinivasan, he appears to have played a major role. The learned counsel for the petitioners in Crl.O.P.(MD) No.760 of 2020, claims that he is after all a broker who had taken up the transaction for getting a brokerage. The fact remains that he had taken delivery of the goods from the defacto complainant.

9.The learned counsel for the petitioners would claim that a portion of the goods delivered by the defacto complainant turned out to be defective and that is why the customers rejected the same. If that be so, the goods ought to have been returned. The learned counsel for the petitioners would claim that the cost of returning the goods is more than the value of the goods.

10.I am not satisfied with the said explanation. I cannot lose sight of the fact that the first petitioner in Crl.O.P.(MD)No.760 of 2020, Srinivasan is having one case registered against him in West Bengal. He is also not ready to produce the entire accounts. Therefore, I am not inclined to grant relief to the first petitioner Srinivasan. This Criminal Original Petition is dismissed in so far the first petitioner Srinivasan, in Crl.O.P.(MD)No.760 of 2020, is concerned.

11.I am inclined to grant anticipatory bail to Samsudeen, the petitioner in Crl.O.P.(MD)No.740 of 2020 and Rajamani Iyyar and Priya, the petitioners 2 and 3 in Crl.O.P.(MD)No.760 of 2020 with certain conditions. Accordingly, the petitioner in Crl.O.P.(MD) No.740 of 2020 and the petitioners 2 and 3 in Crl.O.P.(MD)No.760 of 2020 are ordered to be released on bail in the event of arrest or on

<https://hds.csisrecoursa.gov.in/crimes> before the learned Judicial Magistrate No.I,



Tirunelveli, and on their executing 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 learned Magistrate concerned and on further condition that Samsudeen, the petitioner in Crl.O.P.(MD)No.740 of 2020 shall appear before the respondent police daily at 10.30 a.m., for a period of seven days and thereafter as and when required for interrogation. The petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

12. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

sd/-
31/01/2020

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
TIRUNELVELI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.
- 3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.P.YASMIN BEGUM, Advocate (SR-2096[I] dated 03/02/2020)
+1. C.C. to M/S.K.KRISHNA, Advocate SR.No. 2062

ORDER
IN
CRL OP (MD) .Nos.740
and 760 of 2020
Date :31/01/2020

PNN
JM/VR/SAR 1/10.02.2020/4P/7C