



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.2362 of 2020

and

Crl.M.P (MD)No.3818 of 2020

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Crl.O.P(MD).No.2362 of 2020

Selvakumar

... Petitioner/Accused No.1

Vs.

The State represented by
The Inspector of Police,
District Crime Branch
Thoothukudi
Thoothukudi District
(Crime No.29 of 2019)

...Respondent/Complainant

Crl.M.P(MD).No.3818 of 2020

1.G.Thangarajan
2.V.Saravanakumar
3.R.Prakash
4.S.Uthayakumaran

...Petitioners/Affected persons/
Co-complainants

Vs.

1.Selvakumar
2.The Inspector of Police
District Crime Branch
Thoothukudi
(Crime No.29 of 2019)

...Respondent/Petitioner

...Respondent No.1/Complainant

PRAYER in Crl.O.P(MD).No.2362 of 2020: Petition filed under Section 439 of Cr.P.C., to enlarge the petitioner on bail in Crime No.29 of 2019 on the file of the respondent police.

PRAYER in Crl.M.P(MD).No.3818 of 2020: Petition filed under Section 439 (2) r/w Section 482 of Cr.P.C., to cancel the order of interim bail granted to the first respondent above named in Crl.O.P(MD).No.2362 of 2020 dated 18.02.2020 by this Court in Crime No.29 of 2019 on the file of the second respondent.

Crl.O.P(MD).No.2362 of 2020

For petitioner : Mr.M.Ajmal Khan
Senior Counsel For M/s.Ajmal Associates

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



Crl.M.P(MD).No.3818 of 2020

For petitioners : Mr.N.Ananthapadmanaban
For M/s.APN Law Associates
For R1 : Mr.M.Ajmal Khan
Senior Counsel
For M/s.Ajmal Associates
For R2 : Mr.A.Robinson
Government Advocate (Criminal Side)

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ORDER

Heard the learned Senior Counsel appearing for the petitioner in the main criminal original petition, learned Government Advocate (Criminal Side) appearing for the respondent and the learned counsel appearing for the defacto complainant.

2.The petitioner/accused was arrested on 26.12.2019 for the offences punishable under Sections 406, 420, 294(b), 506(i) and 120 (B) I.P.C. in Crime No.29 of 2019 on the file of the respondent police.

3. The allegation of the defacto complaint and other victims is that the petitioner had cheated them to the tune of few crores of rupees. The petitioner applied for bail and the same was dismissed by me on 22.01.2020. The petitioner filed the second bail petition and when the same was taken up for hearing on 18.02.2020, I made it clear that unless the petitioner furnishes some security and also comes out with a schedule of payment, I would not be inclined to grant bail. It was specifically submitted on behalf of the petitioner that the petitioner may be granted interim bail and that he comes out, he will file an affidavit containing the schedule of payment.

4.In view of the said submission made by the learned Senior Counsel on behalf of the petitioner, I granted interim bail on 18.02.2020. It is true that the petitioner had furnished some security. Though the petitioner would claim that the house property worth more than a crore of rupees has been offered as security, the learned counsel for the defacto complainant would contend that the value of the property is worth less than $\frac{1}{4}^{th}$ of what has been projected. The defacto complainant's counsel would also make a few other allegations against the petitioner.

5.Be that as it may, the matter was taken up on 27.02.2020, I recorded that even by then the petitioner has not filed the schedule of payment. The matter was therefore adjourned. The petitioner has specifically filed an affidavit expressing his inability to make any payment. According to him, he had suffered huge loss in the business and that therefore he was not in a position to make any payment to the defacto complainant and others with whom he had dealings. The petitioner was granted interim bail because he



submitted through the learned Senior Counsel that he would not only furnish security but also file an affidavit containing the schedule of payment. Now the petitioner had stated that he is not in a position to make any payment. If that be so, the petitioner ought to have only taken bail only after arguing the case on merits.

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6.Since an offer was made to the Court to settle the issue, interim bail was granted. It is not open to the petitioner herein to now contend that he is not in a position to make any payment.

7.Of course, the petitioner in his affidavit had pleaded certain domestic circumstances. But that is beside the point. The petitioner had only two options before him. Having taken interim bail, he should have honoured the undertaking. If he knew that he would not be in a position to make any payment, he should have prayed for grant of regular bail. After coming out on interim bail, the petitioner even without complying with the undertaking given before the Court, cannot ask for conversion of interim bail into regular bail.

8.In view of the conduct of the petitioner, I am of the view that the main criminal original petition has to be dismissed. I cannot accept the request made by the learned Senior Counsel to make the interim bail absolute. Therefore, the Criminal Original Petition is dismissed and the Criminal Miscellaneous Petition is allowed.

9.The petitioner has to necessarily surrender. Of course, it is open to the petitioner to apply for regular bail after such surrender.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS

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Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy,shall be the responsibility of the Advocate/litigant concerned.

To:

The Inspector of Police,
District Crime Branch
Thoothukudi,Thoothukudi District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Addition Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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CrI.O.P (MD)No.2362 of 2020
and
CrI.M.P (MD) .No.3818 of 2020
26.08.2020

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