



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

Date : 19/08/2020

PRESENT

**The Hon`ble Mr.Justice V.BHARATHIDASAN**

CRL OP(MD). No.6584 of 2020

1. R.Lalitha Ramalingam
2. R.Palaniappan
3. R.Thirumalaiappan
4. Sakthi Mala @ Sathyakala Ramalingam

... Petitioners/Accused 2 to 5

Vs

- 1.State Rep.by  
The Inspector of Police,  
City Crime Branch,  
Madurai City.  
In Crime.No.20 of 2020.

... Respondent/ Complainant

**(\*) 2.P.Ramesh**

... Respondent

**(\*) [R2 Impleaded as per order of this Court  
dated 19.08.2020 in Cr1.M.P. (MD) No.3839 of 2020  
in CRL OP(MD). No.6584 of 2020]**

For Petitioners: M/s Babu.Rajendran,  
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,  
Government Advocate (Cr1.Side) (for R1)  
: Mr.N.Dilipkumar (for R2)

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

**PRAYER :-**

For Anticipatory Bail in Crime.No.20 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners who are arrayed as Accused No.2 to 5, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 419, 420, 294(b) and 506(ii) of I.P.C., in Crime No.20 of 2020, on the file of the respondent police, seek anticipatory bail.



2.The case of the prosecution is that the first petitioner herein availed loan of Rs.7,00,00,000/- from the de-facto complainant bank, namely, Tamil Nadu Mercantile Bank, Madurai on 30.09.2015. At the time of availing loan, the petitioners have mortgaged some property and also hypothecated some movable goods available in the premises. Subsequently, the petitioners failed to repay the loan amount and a proceedings under SARFAESI Act has also been initiated for recovery of loan amount. The four properties mortgaged by the petitioners have brought for auction and out of which, three properties were sold by the de-facto complainant bank. That apart, for recovery of the remaining amount, an Original Application has been filed by the bank before the Debt Recovery Tribunal, Madurai. Now the present allegation is that after hypothecating some movable properties in the bank, the petitioners have removed the same without the knowledge of the bank. Thereby, they committed the offence.

3.The learned counsel appearing for the petitioners would submit that already, the de-facto complainant bank has initiated proceedings under SARFAESI Act and attached four properties and out of which, three properties were sold and substantial amount also recovered from the petitioners. That apart, the original application has also been filed and the same is also pending before the Tribunal. So far as the present application is concerned, the petitioners have not hypothecated any goods. Even the hypothecated deed does not mention about the movable properties hypothecated to the bank. Hence, they sought for anticipatory bail.

4.The learned counsel appearing for the de-facto complainant bank would vehemently contended that the petitioners, entered into an hypothecation agreement on 30.09.2015. At the time, the bank officials inspected the premises and checked the hypothecated properties available in the premises and had taken photographs. Subsequent to the inspection, the bank officials found that none of the properties hypothecated by the petitioners were available in the premises and with an *malafide* intention, the petitioners have removed all the hypothecated goods.

5.The learned Government Advocate (Crl. Side) appearing for the respondent submit that the investigation is pending.

6.On perusal of the records including the alleged hypothecation deed executed by the petitioners in favour of the bank that the properties mentioned in the hypothecated deed is very vague and it does not contain the details of the properties hypothecated to the bank. However, the de-facto complainant now relying upon the certain photographs to show that those goods hypothecated to the bank were removed by the petitioners. In the absence of any details in the hypothecated deed, at this stage, this Court, by relying upon some photographs, cannot hold that the petitioners have removed the properties hypothecated to the bank. That apart, the admitted fact is that now the



proceedings under SARFAESI Act has been initiated against the petitioners and the valuable properties were also sold in public auction and substantial amount also recovered from the petitioners.

7.Considering the above facts and circumstances of the case and also considering the rival submissions, I am inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Madurai on condition that the petitioners shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioners 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 petitioners shall report before the respondent police as and when required for interrogation;

(c)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***; and;

(f)if the petitioners/accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

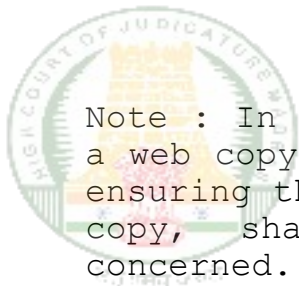
sd/-

19/08/2020

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



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.

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

+1 CC to M/s.BABU.RAJENDRAN, Advocate (SR-6016[I] dated 20/08/2020 )

+1 CC to M/s.N.DILIPKUMAR, Advocate ( SR-6012[I] dated 19/08/2020 )

ORDER

IN

CRL OP(MD) No.6584 of 2020

Date :19/08/2020

MS/AKM/SAR-3/28.08.2020/4P.7C