



WEB COPY

CRL OP(MD). No.8114 of 2020

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

Date : 07/09/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.8114 of 2020

1. M.Raju
2. Mani ... Petitioners/Accused-1 & 2

Vs

State rep by
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
Crime No. 7 of 2020. ... Respondent/Complainant

Ram Prasath ... Petitioner/Intervener/Defacto Complainant
in CRL MP(MD)No.3968 of 2020 in
CRL OP(MD)No.8114 of 2020

For Petitioners : Mr.S.Ravi
Advocate.
For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)
For Intervenor : Mr.AR.L.Sundaresan
Senior counsel
for Mr.P.Samuel Gunasingh, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.7 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A-1 and A-2 apprehending arrest at the hands of the respondent police for the offences punishable under Sections 406, 417 and 420 of I.P.C., in Crime No.7 of 2020, on the file of the respondent police, seek anticipatory bail.

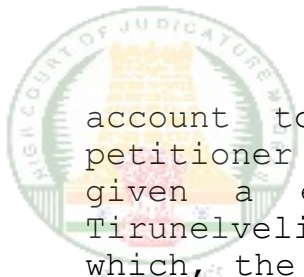
<https://hcservices.ecourts.gov.in/hcservices/>

failed to
given a co

4. The learned counsel appearing for the petitioner would submit that, admittedly the first petitioner borrowed money from the de-facto complainant for a sum of Rs.2 crores and the entire amount has been transferred to the first petitioner's account, thereafter, the first petitioner failed to repay the same, the earlier complaint has been given, after prolonging negotiation, the first petitioner agreed to pay a sum of Rs.40,00,000/- and entered into an agreement and based on the agreement, the earlier complaint has been closed.

6. The learned Government Advocate (Crl. Side) appearing for the State would submit that the investigation is pending.

8. On perusal of the records, it is seen that a sum of Rs.2,00,000/- has been transferred from the de-facto complainant



account to the petitioners' account, alleging that the first petitioner failed to repay the amount, the de-facto complainant has given a earlier complaint before the District Crime Branch, Tirunelveli and there was a settlement between the parties, in which, the first petitioner agreed to repay a sum of Rs.40,00,000/- and also entered into an agreement. Thereafter, the first petitioner failed to repay the amount. The learned counsel for the petitioners submitted that the first petitioner is only an agent of the de-facto complainant and he lent money to various persons on his advice, but he was not able to recover the money, for which, the present complaint has been filed, however, to substantiate allegation no materials available on record, the learned counsel for the petitioner submitted that he was forced to enter into the earlier agreement.

9.Considering the facts and circumstances of the case and also considering the fact that the first petitioner has agreed to pay amount and thereafter, he failed to repay the same, considering seriousness of allegation made out against A-1, this Court is not inclined to grant anticipatory bail to the first petitioner/A-1. Hence, this petition is dismissed insofar as the first petitioner is concerned.

10.Insofar as A-2 is concerned, some of the money received by A-1 from the de-facto complainant has been transferred to his father/2nd petitioner's account and there is no substantial material available on record. Hence, I am inclined to grant anticipatory bail to the second petitioner/A-2 with certain conditions.

11.Accordingly, the second petitioner is 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, Tirunelveli, on condition that the second petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) 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:

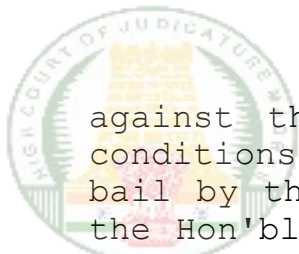
(a)the second petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the second petitioner shall report before the respondent police as and when required for interrogation;

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

(d)the second petitioner shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned Magistrate is entitled to take appropriate action



against the second petitioner in accordance with law as if the conditions have been imposed and the second 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]***; and;

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

sd/-

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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.

TO

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

ORDER

IN

CRL OP(MD) No.8114 of 2020

Date :07/09/2020

sjj

AE/VR/SAR-II (18.09.2020) 4P 5C