



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

Date : 04/09/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.8724 of 2020

Raja Mohammed

... Petitioner/Sole Accused

Vs

State rep.by,
The Inspector of Police,
Tallakulam Police Station(Crime),
Madurai.
Crime No.1844/2020.

... Respondent/Complainant

For Petitioner : M/s.R.Suriyanarayanan,
Advocate.

For Respondent : Mr.K. Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervener : Mr.B.Arun, Advocate

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

PRAYER :-

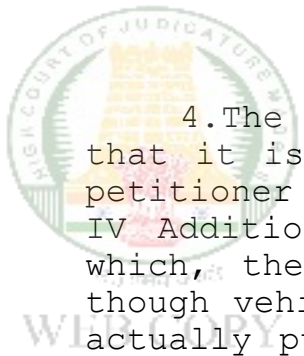
For Anticipatory Bail in Crime no. 1844 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is the sole accused, apprehending arrest at the hands of the respondent police for the offences punishable under section 379 of IPC, in Crime No.1844 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the defacto complainant are partners in the partnership firm. During the business, they purchased so many properties, subsequently, there was a dispute between the partners, due to which, they separated. During that period, some of the vehicles were purchased by them on their own funds from the partnership firm and one of the cars stand in the name of the defacto complainant, but the car is under custody of the petitioner. Thereafter, the defacto complainant asked the petitioner to return the vehicle, but the same was refused by the petitioner. Hence, the present complaint.

3.Heard the learned counsel appearing for the petitioner and the intervener/defacto complainant and the learned Government Advocate (Crl. Side) appearing for the respondent.



4.The learned counsel appearing for the petitioner submitted that it is purely a civil dispute. He further submitted that the petitioner has filed a suit in O.S.No.115 of 2020 on the file of the IV Additional District Judge, Madurai, which is also pending, in which, the vehicle is also shown as one of the property. Even though vehicle stands in the name of the defacto complainant, it is actually purchased out of his own funds from the partnership firm and the petitioner is claiming ownership of the vehicle and the same is under his custody. The petitioner has been falsely implicated in this case. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned counsel appearing for the intervener/defacto complainant submitted that the petitioner has registered the vehicle in his name. However, after the dispute, the petitioner has taken the vehicle and refused to hand over the same. Hence, the present complaint. As on today, none of the vehicle was with the petitioner and the alleged vehicle was registered in the name of the defacto complainant, which is available with the petitioner.

6.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted it is purely a civil dispute. There was a dispute between the partners, due to which, they were separated and some of the vehicles purchased from out of the funds of the partnership firm stands in the name of the defacto complainant. Thereafter, the defacto complainant asked the petitioner to return the vehicle, but the same was refused by the petitioner. Hence, the present complaint.

7.On perusal of the records, it is seen that it is a civil dispute between the petitioner and the defacto complainant and they are partners in the partnership firm. Due to dispute, they got separated and some of the vehicles stands in the name of the petitioner and the disputed car was registered in the name of the defacto complainant and the same is under the custody of the petitioner.

8.Considering the facts and circumstances of the case and also considering the rival submissions on either side and the fact that it is purely a civil dispute and the suit is also pending between the parties, hence, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

9.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 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 petitioner shall report before the respondent police as and when required for interrogation.

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

(d) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the 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 accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/09/2020

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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.

TO

1. THE JUDICIAL MAGISTRATE NO.II, MADURAI

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI

3. THE INSPECTOR OF POLICE
TALLAKULAM POLICE STATION (CRIME), MADURAI

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.8724 of 2020

Date : 04/09/2020

VSG

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