



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

Date : 23/11/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

**CRL OP(MD)No.8903 of 2020
and CRL.OP(MD)Nos.10825 & 10826 of 2020**

CRL OP(MD)No.8903 of 2020:

S.Baskaran ... Petitioner/Accused No.4

Vs

State through
The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
Crime No. 50 of 2020. ... Respondent

M.Mathankumar ... Intervener/Nil/De-facto Complainant
in CRL MP(MD)No.4338 of 2020 in
CRL OP(MD)No.8903 of 2020

For Petitioner : M/s.R.Alagumani,
Advocate
For Respondent : Mr.K. Suyambulinga Bharathi,
Government Advocate (Crl.Side)
For Intervener : Mr.V. Subramanian, Advocate

PRAYER:-Petition filed under Section 438 of Cr.P.C. for Anticipatory
Bail in Cr.No.50 of 2020 on the file of the respondent police.

CRL. OP(MD) No.10825 of 2020:

Madhankumar ..Petitioner/Nil/Defacto Complainant

/Vs/

1. Muniasamy .. Respondent/Petitioner/Accused No.2

2. The Inspector of Police,
District Crime Branch,
Ramanathapuram, Ramanathapuram District.
Crime No.50 of 2020. ... 2nd Respondent/Respondent/Complainant



PRAYER: Petition filed under Section 439(2) of Cr.P.C. to cancel the bail granted in Crl.MP No.2092 of 2020, dated 07.09.2020 on the file of the learned Principal District and Sessions Judge, Ramanathapuram.

CRL. OP(MD) No.10826 of 2020:

Madhankumar .. Petitioner/Nil/Defacto Complainant

/Vs/

1. Sugumar .. Respondent/Petitioner/Accused No.3

2. The Inspector of Police,
District Crime Branch,
Ramanathapuram, Ramanathapuram District.
In Crime No.50 of 2020. ... 2nd Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 439(2) of Cr.P.C. to cancel the bail granted in Crl.MP No.2005 of 2020, dated 28.08.2020 on the file of the learned Principal District and Sessions Judge, Ramanathapuram.

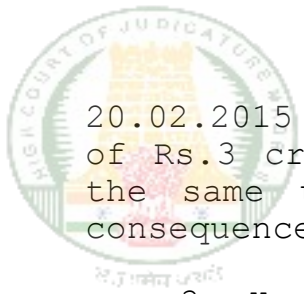
CRL. OP(MD) Nos.10825 & 10826 of 2020

For Petitioner : Mr.S. Gokulraj, Advocate
For R-1 : Mr.K. Suyambulinga Bharathi
Government Advocate (crl. Side)
For R-2 : Mr.Veerakathiravan, Senior Counsel for
M/s. Veera Associates

COMMON ORDER

The petitioner/A-4 in CRL OP(MD) No.8903 of 2020 apprehending arrest at the hands of the respondent police for the offences punishable under sections 406, 420, 294(b), 506(ii) & 120B of I.P.C., in Crime No.50 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that totally there are five accused and the petitioner was arrayed as A-4 and on the complaint lodged by the defacto complainant, the District Crime Branch, Ramanathapuram has registered a case in Crime No.50 of 2020 alleging that the defacto complainant invested a sum of Rs.6 crores in making spare parts of aeroplane, namely, Radio Activity Mineral-Spare parts in the year 2015. As far as A-4 is concerned who is none other than brother-in-law of A-1 & A-3. The accused persons promised and induced the defacto complainant that they were returned back the money. The defacto complainant has paid a sum of Rs.3 crores on



20.02.2015 to A-1 to A-4 in the presence of A-5 and also paid a sum of Rs.3 crores to A-1 to A-5. The defacto complainant questioned the same the accused persons said to have threatened with dire consequences. Hence, the complaint.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the respondent.

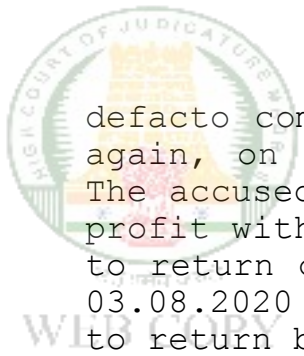
4. The learned counsel appearing for the petitioner in Crl.O.P (MD)Nos.10825 & 10826 of 2020 filed to cancel the bail granted to A-2 and A-3 on the ground that A-2 and A-3 suppressed the fact that the accused persons have filed a suit in O.S. No.43 of 2015 on the file of the Subordinate Court, Ramanathapuram and the same is pending.

5. The learned Senior counsel for the petitioner would submit that insofar as the petitioner/A-4 is concerned he is nothing to do with the offence as alleged by the prosecution. This petitioner only happens to be brother-in-law of A-1 & A-3 and he has been falsely implicated in this case and A-1 is abroad. He would further submit that, even according to the defacto complainant, money which was given by him in the year 2015 on the assurance that it would be repaid within 40 days with substantial profit. Thereafter, for the past five years, the defacto complainant did not prefer any complaint and also did not take any action against the accused persons. Whereas the accused A-1 & A-2 have filed a suit in O.S. No.43 of 2015 for mandatory injunction as against the defacto complainant and others to hand over the schedule mentioned documents which were obtained legally by the defacto complainant for loan transactions.

6. The learned counsel for A-2 & A-3 and first respondent in Crl.OP(MD) No.10825 and 10826 of 2020 submitted that they never suppressed any of the fact before the Court below in O.S. No.43 of 2015 and the suit was dismissed for default and restoration petition was filed and the same is pending on the file of the Subordinate Court, Ramanathapuram. He further submitted that the Court below has considered the the period of incarceration and granted bail to A-1 & A-2.

7. Heard the learned counsel appearing for the petitioners and learned Government Advocate (rl. Side) appearing for respondent police and the learned Senior counsel appearing for the second respondent and the learned counsel appearing for intervenor.

8. The petitioner/defacto complainant in Crl.OP(MD) Nos.10825 & 10826 of 2020 lodged a complaint alleging that the accused persons have planned to start a business of Radio Activity Mineral-Spare the assurance given by the accused persons, the



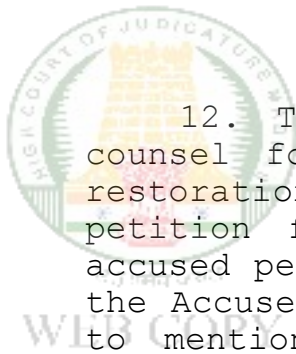
defacto complainant on 22.02.2015 gave his share of Rs.3 crores and again, on 27.05.2015 a sum of Rs.3 crores to the accused persons. The accused persons assured that they returned back with substantial profit within 40 days. When the defacto complainant questioned about to return of amount and also demanded to return the said amount, on 03.08.2020 the accused persons criminally intimidated and refused to return back the amount.

9. On perusal of the complaint, though the defacto complainant specifically stated that on 22.02.2015 and 27.05.2015 gave a sum of Rs.6 crores by way of cash to the accused persons they failed to purchase any single piece of evidence to show that the accused persons have received a sum of Rs.6 crores. Further, on those dates the amount have been paid in front of Palace, Ramanathapuram and also New Bus stand, Ramanathapuram and Rs.6 crores is a huge amount and that was paid by the defacto complainant by cash. Further, the said amount paid by the defacto complaint in the year 2015, whereas, the complaint lodged only in the year 2020. There is absolutely no explanation for delay in lodging complaint. Even, according to the defacto complainant, the accused persons have assured that the entire amount would be returned back with substantial profit, within a period of 40 days.

10. It is seen from the records that, A-1 & A-2 have filed a suit in O.S. No. 43 of 2015 on the file of the Subordinate Court, Ramanathapuram for mandatory injunction directing the defacto complainant and others to hand over the schedule mentioned documents and the schedule consists of original sale deed, promissory notes, blank singed stamp papers, singed green sheets and signed cheques. It also revealed that the defacto complainant and others informed to the accused persons that they came to Mettupalayam for Radio Activity Mineral-Spare parts.

11. On perusal of the written statement filed by the defacto complainant and another, namely; the third and fourth respondent in O.S. No.43 of 2015 stated in paragraph No.4 is as follows;

"4.The defendants herein deny the averments contained paragraph IV of the Plaint as the same is devoid of semblance of truth and it is false, frivolous, concocted and the same was pleaded with ulterior motive to maintain the above suit. The first defendant told the defendants herein states that the Plaintiffs are strangers to him. The defendants herein state that the first defendant is doing Hotel and Plantation business only and that too it is proprietorship. He has no time to think of other businesses other than the one he is doing for decades. The Plaintiffs cannot even see the first defendant without an appointment. The first defendant is a renowned business known to top industrialists of India. "



12. Though, the suit was dismissed for default, the learned counsel for A-3 submitted that A-1 & A-2 filed a petition for restoration and the suit in O.S. No.43 of 2015 is pending. Though, petition for cancelling the bail filed on the ground that the accused persons have suppressed the fact that the suit was filed by the Accused Nos.1 & 2 was dismissed, the defacto complainant failed to mention the suit was dismissed for default. However, the learned counsel for the petitioner mentioned the date of dismissal is as 04.02.2019.

13. The learned counsel for the petitioner submitted that now A-1 & A-2 have filed restoration petition and the same is pending and the same was posted on 02.12.2020. Insofar as A-2 & A3 are concerned they were arrested on 21.08.2020 and they were released on bail by the Court below on 07.09.2020. Admittedly, the civil suit is pending between the accused Nos. 1 & 2 and the defacto complainant and others in respect of money transactions between them. Infact, the suit was filed for mandatory injunction directing the defacto complainant and others to return the schedule mentioned documents. Therefore, the Court below considered the above facts and circumstances and also a period of incarceration by A-1 & A-3 granted bail to them.

14. Insofar as the anticipatory bail in Crl.OP(MD) No.8903 of 2020 for the petitioner/A-4 is concerned he is brother-in-law of A-1 and A-3. Though, the defacto complainant alleged that all the accused persons received a sum of Rs.6 crores on two occasions, on perusal of written statement filed by the defacto complainant revealed that A-1 & A-2 are strangers to him. It is further stated that the plaintiffs are not close associates of the first defendant are his business partners. While, being so, the money transactions between the accused persons and the defacto complainant is unbelievable one as alleged in the complaint.

15. Considering the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. In view of the order passed in Crl.OP(MD) No.8903 of 2020, the petitions for cancellation of bail in Crl.OP(MD) Nos. 10825 & 10826 of 2020 are stands dismissed.

16. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Ramanathapuram, and on his 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,

(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



(b)the petitioner shall report before the respondent police daily at 10.30 a.m., without fail for a period of Two weeks and thereafter, 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

23/11/2020

/ TRUE COPY /

/ /2020

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, RAMANATHAPURAM.
- 2.DO THRO'THE CHIEF JUDICIAL MAGISTRATE,RAMANATHAPURAM DISTRICT.
- 3.THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, RAMANATHAPURAM.
- 4.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, RAMANATHAPURAM, RAMANATHAPURAM DISTRICT.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.SUBRAMANIAN Advocate SR.No.22611
+1CC to MR.S.GOKULRAJ, Advocate SR.No.22612
+2ccs to M/S.VEERA ASSOCIATES, in SR.Nos.7615 and 7616

ORDER IN
CRL OP(MD)No.8903 of 2020 and
CRL.OP(MD)Nos.10825 & 10826 of 2020
Date :23/11/2020

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