



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

Date : 27/08/2020

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PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.9026 of 2020

1. V.Nixon @ Nixon Thambiraj
2. Robinson @ Rallinson Pakiaraj ... Petitioners/Accused No.1&2

Vs

The State rep. by
The Inspector of Police,
Palayamkottai Crime Police Station,
Tirunelveli District
Cr.No. 1063 of 2020. ... Respondent/Complainant

For Petitioner : M/s.N.Mohideen Basha,
Advocate.
For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Criminal Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 1063 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the respondent police for the offences punishable under Section 420 of I.P.C., in Crime No.1063 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The allegation against the petitioners is that the petitioners were running a finance company during the year 2011. The defacto complainant deposited a sum of Rs.6,75,000/- on 10.07.2013 and further deposited a sum of Rs.1,75,000/-. At that time, the petitioners promised to pay the interest at the rate of 2%. In the year 2014-2015, they have paid a sum of Rs.2,60,000/- to the defacto complainant as interest. Thereafter, they failed to pay the interest as well as the principle amount. Hence, the complaint.



3.The learned counsel appearing for the petitioners would submit that the petitioners were running a finance company and collected some amount from the defacto complainant. For which, they have paid the interest amount also. Thereafter, they suffered loss. Therefore, they have also filed a Insolvency Petition to declare them as Insolvents. Now all the proceedings are pending. In the meantime, after 7 years the present complaint has been filed.

4.The learned Government Advocate (Criminal Side) appearing for the State would submit that the petitioners have collected more than Rs.8 lakhs. But, they have not repaid the said amount and cheated the defacto complainant. Hence a case has been registered under Section 420 of IPC.

5.On perusal of the records, it is seen that the petitioners have received the amount from the defacto complainant during the year 2013. For which, the defacto complainant is also said to have been received the interest. Thereafter, it is stated that the petitioners suffered lose in their business. Proceedings have been initiated under Insolvency Act and the same is pending.

6. Taking note of facts and circumstances of the case, 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, Tirunelveli, 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 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 petitioner/accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
27/08/2020

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/ /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.I,
TIRUNELVELI.
2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
PALAYAMKOTTAI CRIME POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.9026 of 2020
Date :27/08/2020

DAS
SRS/ AKM/ SAR-II/ 01.09.2020/ 3P/5C