



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/10/2020

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PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD).No.9627 of 2020

and

CRL MP(MD)No.4519 of 2020

1.Pappa

2.Sivapriya

...Petitioners/Accused -3&4

Vs

The State rep. by
The Inspector of Police,
District Crime Branch,
Tirunelveli District
Crime No.07 of 2020.

...Respondent/Complainant

For Petitioners: Mr.S.Ravi,
Advocate.

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

For Intervenor : Mr.AR.L.Sundaresan
Senior Counsel
for Mr.P.Samuel Gunasingh

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

PRAYER :-

For Anticipatory Bail in Crime No.07 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A3 & A4, apprehending arrest at the hands of the respondent police for the offences punishable under sections 406, 417 and 420 IPC, in Crime No.07 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that A1 in this case has received a sum of 1 crore 70 lakhs from the defacto complainant for the purpose of business improvements and promised to the defacto complainant to return the amount with interest. But he failed to repay the amount and also criminally intimidated him. Earlier, a complaint was given by the defacto complainant, in which, A1 in this



case, appeared in the police station for enquiry and agreed to repay a sum of Rs.40,00,000/-. Based on the assurance of A1, earlier complaint was closed. Thereafter, the defacto complainant failed to repay the amount. Hence, the present complaint. The first petitioner/A3 is the mother of A1 and the second petitioner/A4 is the wife of A1. The allegation is that A1 has transferred a sum of Rs.29,00,000/- (Rupees Twenty Nine lakhs only) to A3 account and a sum of Rs.18,00,000/- (Rupees Eighteen lakhs only) to A4 account. Hence, the petitioners have also made an accused.

3.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Criminal Side) appearing for the respondent.

4.The learned counsel appearing for the petitioners would submit that the petitioners are only mother and wife of A1 and the petitioners have not cheated the defacto complainant and the only allegation is that A1 has transferred the amount to the petitioners account. He further submitted that all the amount now re-transferred to A1 account.

5.Mr.AR.L.Sundaresan, Senior Counsel for Mr.P.Samuel Gunasingh appearing for the intervenor would submit that in the earlier complaint given by the defacto complainant, A1 has given assurance to repay a sum of Rs.40,00,000/- and it was agreed by the defacto complainant, hence the complaint was closed. However, A1 failed to repay the amount. Subsequently, the defacto complainant came to understand that A1 has received the amount and transferred the amount to the petitioners account. Hence, they also made as accused and till date, no amount has been paid to the defacto complainant.

6.The learned Government Advocate (Criminal Side), on instructions, submitted that investigation is still pending.

7.Considering the facts and circumstances of the case and also considering the rival submission on either side and on perusal of the materials available on records, it is seen that A1 has transferred nearly a sum of Rs.29,00,000/- to his mother/A3 account and Rs.18,00,000/- to his wife/A4 account. The learned counsel for the petitioners submitted a statement of account pointing out that out of Rs.29,00,000/-, the first petitioner/A3 has re-transferred a sum of Rs.12,00,000/- to A1 account and the second petitioner is concerned a sum of Rs.18,00,000/- has transferred to A1 account in the month of July 2018 itself.

8.Considering the above circumstances, so far as the first petitioner is concerned, admittedly, the amount has been transferred to her account and the first petitioner is not willing to come forward to settle the amount. Hence, I am not inclined to grant anticipatory bail to the first petitioner. Accordingly, this



9. In so far as the second petitioner is concerned, she is the wife of A1 and a sum of Rs.18,00,000/- has been re-transferred to A1 account in the month of July 2018, hence I am inclined to grant anticipatory bail to the second petitioner with certain conditions.

10. Accordingly, the second petitioner is ordered to be released on anticipatory bail in the event of arrest or her appearance, within a period of four weeks from the date of receipt of a copy of this order, before the Judicial Magistrate Court No.1, Tirunelveli, on condition that the second 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 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/ Trial Court 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;

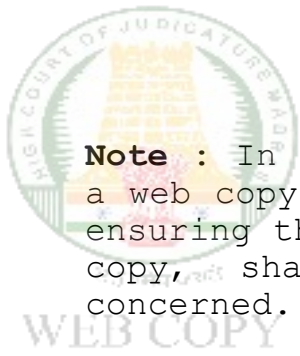
(f) if the accused/second petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

9. Accordingly, the Criminal Original Petition is partly allowed.

sd/-
01/10/2020

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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.I,
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.9627/2020 and
CRL MP(MD)No.4519/2020
Date :01/10/2020

VSD
SRS/ SMA/SAR-III/ 12.10.2020/ 4P/5C