



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

Date : 28/09/2020

PRESENT

WEB COPY

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.9845 of 2020

1. C.Jegadeesan
2. S.Muneeswaran

... Petitioners/Accused Nos.1 & 2

Vs

The State of Tamilnadu,
represented by
The Inspector of Police,
Trichy Fort Police Station,
Trichy City.
(Crime No. 1292 of 2020).

... Respondent/Complainant

Sakthivel

... Petitioner/Defacto Complainant
in CRL MP(MD)No.4658 of 2020
in CRL OP(MD)No.9845 of 2020

For Petitioners: Mr.T.R.Jeyapalam,
Advocate.

For Respondent : M/s.S.E.Veronica Vincent,
Government Advocate (Crl.Side)

For Intervener : Mr.R.Karunanidhi, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.1292 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused No.1 and 2, apprehending arrest at the hands of the respondent police for the offences punishable under section 379 of IPC, in Crime No.1292 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant said to have obtained loan by hypothecating his vehicle with the petitioners' finance company. Since the defacto complainant said to have committed default in repayment of loan, the petitioners's finance company have taken action against the defacto complainant



and also seized the vehicle. Based on a complaint given by the defacto complainant, the crime has been registered against the petitioners as if the vehicle has been stolen by the petitioners.

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

4. The learned counsel appearing for the petitioners submitted that the defacto complainant has obtained loan by hypothecating his vehicle with the petitioners' finance company. Since the defacto complainant has committed default, after following due process of law the vehicle has been seized on 06.08.2020. Thereafter, a pre-sale notice has also been issued on 08.08.2020. After receipt of the notice, the defacto complainant has lodged the present complainant. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. On earlier occasion, when the matter came up for hearing, the learned counsel appearing for the intervener/defacto complainant is willing to repay the remaining due amount to the petitioners' finance company.

6. When the matter is taken up for hearing today, the learned counsel appearing for the petitioner and the intervener/defacto complainant submitted that they have not settled the matter and the defacto complainant not yet paid the balance amount.

7. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the matter has not been settled between the parties and the defacto complainant not yet paid the balance amount.

8. 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 the defacto complainant has obtained loan from the petitioners' finance company. Since the defacto complainant has committed default, after following due process of law the vehicle has been seized on 06.08.2020, Considering the above circumstances, I am inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or 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, Tiruchirappalli, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 second petitioner 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

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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, TIRUCHIRAPPALLI.

2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3. THE INSPECTOR OF POLICE,
TRICHY FORT POLICE STATION, TRICHY CITY.

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

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-6696[I] dated 29/09/2020)

ORDER IN

CRL OP(MD) No.9845 of 2020

Date : 28/09/2020

vsg

<https://hccs.judges.org/In/Case/10.2020> 3P 6C