



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

Date : 07/10/2020

PRESENT

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

CRL OP(MD). No.10960 of 2020

1. Chellamuthu
2. Palanivel
3. Gunasekaran
4. Palaniammal
5. Sumathi

... Petitioners/Accused Nos.1 to 5

Vs

State Rep. by
The Inspector of Police,
District Crime Branch,
Dindigul District.
Crime No.9/2020.

... Respondent/Respondent

For Petitioners: Mr.S.Ravi, Advocate
for M/S.B.Chakkaravarthi, Advocate.
For Respondent : M/s.M.Anandha Devi,
Government Advocate (Crl.Side)
For Intervener : Mr.S.C.Herold Singh, Advocate

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

PRAYER :-

For an Anticipatory Bail in Crime No.9 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1 to A5, apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 506(i), 406 and 420 of IPC, in Crime No.9 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant viz., Kalimuthu is doing financial business in the name and style of "Amman Finance and Amman Arul Finance". The fifth petitioner is a managing partner in the above said financial institution. On 15.11.2019, the petitioners said to have borrowed a sum of Rs.2,44,800 from the defacto complainant's financial company.



Thereafter, the petitioners failed to repay the said amount. On 28.06.2020, the petitioners said to have abused the defacto complainant by using filthy language and also threatened him with dire consequences. Based on the complaint given by the defacto complainant, the crime has been registered against the petitioner.

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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 there is absolutely there is no proof to show that the petitioners have borrowed huge amount from the defacto complainant's financial company. He further submitted that the entire transaction is civil in nature and no criminal offence has been made out against the petitioners. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. The learned counsel appearing for the intervener submitted that the fifth petitioner herein is the one of the partner of the defacto complainant's financial company and by using the same, the petitioners have borrowed a sum of Rs.2,44,80,000/- from the defacto complainant's financial company.

6. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that On 15.11.2019, the petitioners said to have borrowed a sum of Rs.2,44,80,000/- from the defacto complainant's financial company. Thereafter, the petitioners failed to repay the said amount. On 28.06.2020, the petitioners said to have abused the defacto complainant by using filthy language and also threatened him with dire consequences.

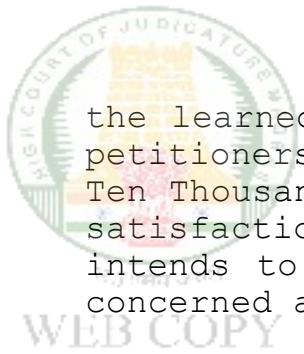
7. On perusal of the records, it is seen that the fifth petitioner is the Managing partner of the defacto complainant financial company. According to the defacto complainant, the petitioners have borrowed a sum of Rs.2,39,80,000/- from him on various dates and on 15.11.2019, further a sum of Rs.5,00,000/- has been borrowed by the petitioners. Thereafter, they failed to return the said amount.

8. Considering the facts and circumstances of the case and also considering the fact that all the transactions are civil in nature and the defacto complainant and also no documents have been produced by the defacto complainant that the petitioner has borrowed a sum of Rs.2,44,80,000/- from the defacto complainant's financial company, I am inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of

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the date of receipt of a copy of this order, before



the learned Judicial Magistrate II, Dindigul, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 daily at 10.30 a.m for a period of two weeks and thereafter 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/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

07/10/2020

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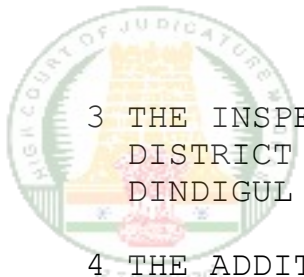
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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.II,
DINDIGUL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL.



3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
DINDIGUL DISTRICT.

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

+1. CC to M/S.B.CHAKKARAVARTHI, Advocate SR.No.19658

ORDER

IN

CRL OP(MD) No.10960 of 2020

Date :07/10/2020

vsg

JM/PN/SAR III/15.10.2020/4P/6C