



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/10/2020

PRESENT

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

CRL OP(MD) . No.11192 of 2020

Thangapandian

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
CBCID-South, Kanyakumari District.
Crime No.04/2020.

... Respondent/Complainant

For Petitioner : M/s.C.Muthusaravanan,
Advocate.
For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

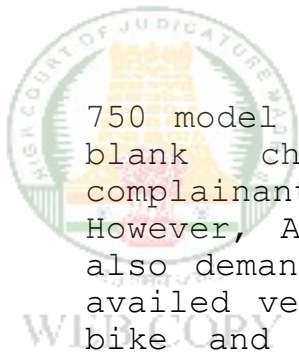
PRAYER :-

For Bail in Crime No.04 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2 was arrested and remanded to Judicial Custody on 30.06.2020 for the offences punishable under sections 420, 406, 465, 467, 471, 384, 506(i), 120B, 109 r/w 34 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant in this case one Dravid and the petitioner/A-2 is the father of A-1, A-1 is a money lender, in the month of April 2018, the defacto complainant has borrowed a sum of Rs.1 Lakh from A-1 for interest at the rate of 20%, subsequently repaid the amount. Once again, in the month of June 2018, the defacto complainant has borrowed a sum of Rs.2 Lakhs as loan from A-1 and mortgaged his Harley Davidson Street



750 model bike bearing registration No.TN-74-AW-0009 and also gave blank cheque for security purpose. On 22.08.2018, the defacto complainant has paid entire principle amount along with interest. However, A-1 has refused to return the bike and blank cheque and also demanded more interest. Earlier, the defacto complainant has availed vehicle loan for a sum of Rs.4.5 Lakhs for purchasing his bike and hypothecated the same in Housing Development Finance Corporation Limited (HDFC), subsequently he repaid a sum of Rs.3.4 Lakhs upto 28 dues and remaining amount is due to the HDFC. In the meantime, A-2 has approached the HDFC for clearing the loan amount and negotiating with HDFC and he has paid a sum of Rs.1.05 Lakhs to the HDFC to clear the loan and also filed an application for issuance of 'No Objection Certificate' in his name, however, the HDFC has issued 'No Objection Certificate' in the name of the defacto complainant without his knowledge. Later A-1 & A-2 have forged the signature of the defacto complainant and filed a petition along with a fake Registration Certificate for cancellation of hypothecation with the help of A-3 who is a broker of Regional Transport Office. A-3 has created a forged authentication letter with a forged signature of the defacto complainant and received a Smart Registration Certificate after cancelling hypothecation. Thereafter, A-1 & A-2 have submitted fake documents with the forged signature of the defacto complainant and obtained name transfer in the name of A-1. After knowing the facts about the same, the defacto complainant has preferred a complaint before the Vadasery Police Station in Crime No.316 of 2020 for the offences under Sections 420, 406 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 @ 420, 406, 465, 467, 471, 384, 506 (I), 120B, 109 r/w 34 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. Thereafter, the case was transferred to the respondent police/CBCID South, Kanyakumari, wherein, the crime was registered in Crime No.4 of 2020 for the offences under Sections 420, 406 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 @ 420, 406, 120B & 201 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and the petitioner/A-2 was arrested and remanded into judicial custody on 30.06.2020.

3. This is the second bail petition and the earlier petition was dismissed by this Court on 10.09.2020 in CrI.O.P(MD) No.8119 of 2020. The change of circumstances of the case are the petitioner herein is arrayed as A2. The respondent police completed investigation and filed final report before the concerned Court and the same has been taken cognizance in C.C.No. 316 of 2020 on the file of the learned Judicial Magistrate No.I, Nagercoil and it is pending trial. No one appeared on behalf of the petitioner before the lower Court for conducting trial and so far 35 witnesses have been examined and 313 Cr.P.C questioning is also over. At this juncture the learned counsel for the petitioner also filed a petition for transferring the case in C.C.No. 316 of 2020 from the



Court for the reason that no advocate is willing to appear on behalf of the petitioner before the trial Court to get fair trial. He required counsel to appear on behalf of him. Considering his request this Court stayed the trial on 08.10.2020 and it is pending. This Court while dismissing the bail petition has stated that after registration of the present case the petitioner threatened the other witnesses with dire consequences and compelled them to withdraw the crime registered against him and his son who is arrayed as A1 in this case. In fact the First Information Report was registered on the complaint dated 19.08.2020. Thereafter the complainant namely PW 1 deposed before the trial Court on 24.08.2020 and he did not even whisper about the threatening made by the petitioner herein. Therefore mere registration of the First Information Report would not amount to any impediment for considering the bail petition of the petitioner, since the petitioner is in jail for nearly 110 days. He further submitted that in the present case though document pertaining to two wheeler had been fabricated and the signature of the defacto complainant being forged and transferred the ownership in favour of the first accused for which the petitioner was in incarceration for more than 110 days. Hence he seeks bail.

4. The learned Government Advocate(Crl.Side) would submit that the first accused in this case involved in very serious offence of cheating nearly 120 women by committing sexual assault on them. Infact he also videographed those incident and the same were destroyed by the petitioner herein including the videos in the hard disc. Infact this Court while dismissing the bail petition recorded the submission made by the learned Government Advocate(Crl.Side) also. Further he submitted that on one hand the petitioner filed petition for transfer of trial and obtained an interim order of stay before this Court by an order dated 08.10.2020 and in another hand he has filed the present petition for bail. Therefore there is absolutely no change in facts and circumstances of the case and prayed for dismissal of the petition.

5. It is seen that this Court had already dismissed the bail petition of the petitioner by a detailed order dated 10.09.2020. The petitioner herein is arrayed as A2. Prosecution has examined 35 witnesses and the case stands posted for defence side witnesses. Pending trial another First Information Report has been registered against the accused persons in Crime No.882 of 2020 for the offence under Sections 341,506(i), 195(A) of IPC on the complaint given by PW.1. The said First Information Report has been registered against the other accused persons and PW1 in his deposition has not stated anything about the threatening made by the petitioner herein.

6. As rightly pointed out by the learned Government Advocate (Crl.Side) the petitioner on one hand filed a petition for transferring the calendar case and obtained an interim order of stay of all further proceedings and in another hand the petitioner



case. As discussed by this Court in the earlier order that the petitioner has committed very serious offence with the connivance and his son and also cheated many innocent women. Further the learned counsel submitted that no advocate is willing to appear on behalf of the petitioner before the trial Court for no reason it shows the conduct of the petitioner and serious offence committed by the petitioner and his son. Therefore this Court finds no change in facts and circumstances of the case for considering the bail petition of the petitioner at this stage.

7. Hence the petition stands dismissed.

sd/-

12/10/2020

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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 OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.
- 2 THE INSPECTOR OF POLICE,
CBCID-SOUTH, KANYAKUMARI DISTRICT.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.11192 of 2020

Date :12/10/2020

AAV

AE/JC/SAR-IV (15.10.2020) 4P 4C