



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

Date : 18/11/2020

PRESENT

The Hon`ble Mr.Justice S.M.SUBRAMANIAM

CRL OP(MD) . No.12598 of 2020

1. Seenivasan
2. S.Karthika
3. Ramar

... Petitioners/Accused Nos.1 to 3

Vs

State rep.by,
The Inspector of Police,
B1 Vilkuthoon Police Station,
Madurai District
Crime No.196/2020.

... Respondent/Complainant

For Petitioners: M/s.V.Santhakumaresan,
Advocate.

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

For Intervenor : Mr.V.Malaiyendran, Advocate.

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

PRAYER :-

For an Anticipatory Bail in Crime No.196 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who are arrayed as accused Nos.1 to 3, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 468 and 420 of IPC, in Crime No.196 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The allegations against the petitioners/accused is that they have handed over the fake cheque to the defacto complainant for the purpose of availing loan.

3.The learned counsel appearing for the petitioners state that there was a business transactions between the petitioners/accused as well as the defacto complainant.

4.The learned Government Advocate (Crl.Side) appearing for the respondent is of the opinion that the fake cheque was handed over to



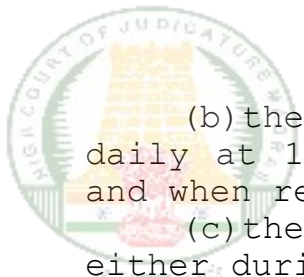
the defacto complainant and on that ground, the criminal case was registered.

5.This Court is of the considered opinion that as far as the case of cheating under Section 420 of IPC is concerned, a larger perception is to be considered. If an offence of 420 IPC is registered with reference to the facts involving the public interests at large, then, the Courts must be conscious in granting anticipatory bail. In other words, the offence of cheating is committed against the public interest or against the public at large, then, the Courts are bound to be slow in granting anticipatory bail to the accused persons. As far as certain allegations of cheating between the individual persons are concerned, then, the Courts have to consider that whether granting anticipatory bail to the accused would affect the trial or not. Different yardsticks are to be adopted with reference to the facts and circumstances placed before the Court, while considering the anticipatory bail petition. A fine distinction is to be drawn with reference to the facts as well as the allegations placed before the Courts. As far as the case of cheating between two individuals are concerned, by detaining a person unnecessarily in prison, the defacto complainant cannot utilise the same for the purpose of recovering the money involved or to settle the cases. The Court cannot be a party to clear such settlement or encourage such settlement between the parties, once, the offence is established. All the offences are to be tried and if there is an element of cheating disproved beyond any pale of doubt during trial, then, the persons may not be convicted and the Court's approach shall not be on the ground of perspective of settling the issues, if all the offences are against the State and the Society at large. However, in these kind of cases, if no purpose would be served, then, anticipatory bail can be granted.

6.This being the factum to consider for grant of anticipatory bail, this Court is of the opinion that the petitioners are entitled for anticipatory bail and accordingly, the petitioners are ordered to be released on anticipatory bail, 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 fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Madurai. 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



(b)the petitioners shall report before the respondent police daily at 10.00 a.m., for a period of four 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

18/11/2020

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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, MADURAI

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT

3.THE INSPECTOR OF POLICE,
B1 VILKUTHOON POLICE STATION, MADURAI DISTRICT

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

+1. CC to M/S.V.SANTHAKUMARESAN Advocate SR.No.7565

ORDER IN

CRL OP(MD) No.12598 of 2020

Date :18/11/2020

DSS/VSG

PK/AKM/SAR-IV/23.11.2020 : 3P/6C

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