



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.12992 of 2020

Sanjeevi ... Petitioner/Accused-1

Vs

The State rep.by
The Inspector of Police,
District Crime Branch,
Dindigul District.
Crime No.27 of 2019.

... Respondent/Complainant

For Petitioner : Mr.M.Gnanansekhar, Advocate
for Mr.S.N.Arunkumar, Advocate

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

For Intervenor : M/s.AL.Ganthi Mathi, Advocate

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

PRAYER :-

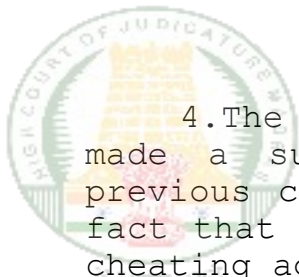
For Bail in Crime No.27 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2.The petitioner was arrested and remanded to Judicial Custody on 23.10.2020 for the offences punishable under sections 120(b), 406, 420 and 506(i) of I.P.C., in Crime No.27 of 2019 on the file of the respondent police. He seeks bail.

3. The learned counsel for the petitioner states that bail had already been granted to A2 and A3 and further, the petitioner as well as the defacto complainant are childhood friends and known to each other. Thus, all these factors are to be established before the trial Court at the time of trial.



4.The learned counsel appearing on behalf of the intervenor made a submission that the petitioner/accused had involved in previous cases and in one case, he was convicted. In view of the fact that he is a habitual offender, again he may commit an act of cheating against other persons.

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5.The learned Government Advocate (Crl.side) raised an objection by stating that the amount involved is a sum of Rs.39,00,000/- and A2 and A3 were released on bail and they are blood relatives of the first accused and therefore, the petition is to be rejected.

6.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 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 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 releasing the accused on bail 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 bail petitions. A fine distinction is to be drawn with reference to the facts as well as the allegations placed before the Courts. It is pertinent to note that keeping a person under detention for a longer period, if no purpose would be served, then, bail can be granted. 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, keeping a person inside the prison for a longer period would not serve any purpose.

7.This being the factum to consider for grant of bail, this Court is of the opinion that the petitioner is entitled for bail and accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

(a)the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate Court II,



[b] the 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.

WEB COPY [c] the petitioner shall report before the respondent police daily at 10.00 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A 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 NO II, DINDIGUL.

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.

3.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,

<https://hcservices.gov.in/hcs/Case/Details.aspx?CaseID=12992>
DINDIGUL DISTRICT.



4.THE OFFICER INCHARGE,
SUB JAIL, VEDASANDUR.

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

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ORDER

IN

CRL OP(MD) No.12992 of 2020

Date :18/11/2020

RMI

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