



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

Date : 07/12/2020

PRESENT

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

CRL OP(MD). No.14180 of 2020

Parthiban ... Petitioner/Accused No.4

Vs

State Rep. by
The Inspector of Police,
CCB, Trichy District.
Crime No. 3/2020. ... Respondent/Complainant

For Petitioner : Mr.R.Murugappan,
Advocate.

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

For Intervener : Mr.Jameel Arasu,
Advocate

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

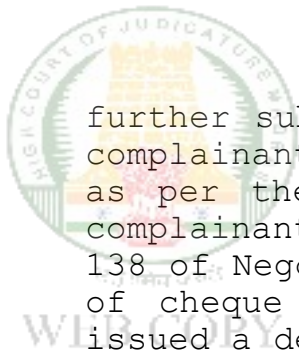
PRAYER :- For Anticipatory Bail in Crime No.3 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the respondent police for the offences punishable under sections 408, 417 and 420 of I.P.C., in Crime No.3 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the seller of tiles in the name and style of KAG India (P) Ltd. It has various branches in all over Tamilnadu. When, A1 was working as a manager in the defacto complainant's company at Trichy branch, he did not account the money, which was collected from various branches for supply of tiles and also without any proper invoice, he supplied tiles to various retailers. Thereby, he misappropriated the Rs,1,16,37,948/- to the defacto complainant's company.

3.The learned counsel for the petitioner submitted that the petitioner arrayed as A4. He is the retail vender of tiles. He is
<https://hcservices.mca.gov.in/hcservices/> company in the name and style of Sri Vinayaga Tiles. He



further submitted that whatever the tiles received from the defacto complainant only through proper invoice and he paid the entire amount as per the invoice to the defacto complainant. In fact defacto complainant issued statutory notice for the offence under Section 138 of Negotiable Instrument Act, dated 26.06.2020 for the dishonour of cheque for a sum of Rs.10,23,044/- for which, the petitioner issued a detailed reply notice stating that all the amount have been duly paid to the defacto complainant and the alleged cheque was not issued for any legal enforceable debt. Further, the petitioner also called upon the defacto complainant to return back the cheques, which were given as security at the time of their business transactions. He further submitted that even according to the defacto complainant, A1 who was working as a branch manager at Trichy branch misappropriated entire amount and as such, the defacto complainant filed a suit for recovery of the entire amount only as against the first accused in O.S.No.131 of 2020 on the file of the III Additional District Court, Trichy and it is pending for adjudication. On a perusal of the said plaint, there is absolutely no single allegation as against the petitioner in respect of misappropriation or non-paying the amount for the tiles which was supplied by A1. Therefore, the custodial interrogation of the petitioner does not required in this case. In fact, A1 was granted anticipatory bail by this Court in Crl.O.P. (MD)No.5749 of 2020 vide order dated 01.07.2020.

4.Per contra, the learned counsel for the defacto complainant/intervener submitted that the petitioner is none other than the retail vender of tiles with the defacto complainant. Without any proper invoice, A1 supplied the tiles to the tune of 30,34,095/- to the petitioner. He further submitted that though A1 was granted anticipatory bail, he also is taking steps to cancel the anticipatory bail granted to A1. Therefore, the custodial interrogation of the petitioner is very much required and sought for dismissal of this anticipatory bail petition.

5.The learned Government Advocate (Crl. Side) submitted that there are totally four accused in which the petitioner arrayed as A4. The defacto complainant is the manufacture of tiles in the name of style of KAG India (P) Ltd. It has various branches all over Tamilnadu. A1 was working as manager at Trichy Branch. While he was acting as manager, he along with other accused persons misappropriated to the tune of Rs.1,16,37,948/- and in which, the petitioner arrayed as A4 and cheated the defacto complainant to tune of Rs.30,34,095/-. Therefore, the custodial interrogation of the petitioner is necessary. Therefore, he prays for dismissal of this petition.

6.It is seen that A1 was granted anticipatory bail by this Court in Crl.O.P. (MD)No.5749 of 2020 vide order dated 01.07.2020 and there is no averment as against the petitioner in the suit filed by complainant in O.S.No.131 of 2020 on the file of the III



Additional District Court, Madurai. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on anticipatory bail, subject to the following conditions:-

[a] the petitioner 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 learned Judicial Magistrate No.V, Trichy District.

[b] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[c] the petitioner 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.

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

[e] the petitioner shall not tamper with evidence or witness 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/-
07/12/2020

/ TRUE COPY /

/ /2020
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.V,
TRICHY DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.

3 THE INSPECTOR OF POLICE,
CCB, TRICHY DISTRICT.

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

ORDER

IN

CRL OP(MD) No.14180 of 2020

Date :07/12/2020

IAS

JM/PN/SAR IV/09.12.2020/4P/5C