



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

Date : 18/12/2020

PRESENT

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

CRL OP(MD). No.14496 of 2020

Paramasivam

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Thottiyam Police Station,
Trichy District.
Crime No.1142 of 2020.

... Respondent/Complainant

For Petitioner : Mr.A.Joel Paul Antony,
Advocate.

For Respondent : Mrs.M.Anandha Devi,
Government Advocate (Crl.Side)

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

PRAYER :- For Bail in Crime No.1142 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 04.11.2020 for the alleged offence under Section 420 of IPC, in Crime No.1142 of 2020 on the file of the respondent police. Hence, he seeks bail.

2.The case of the prosecution is that the defacto complainant viz., Muthukumar lodged a complaint against the petitioner alleged that the petitioner and his son had running a Finance Company in the name and style of Sri Palani Murugan Finance for the past 20 years. The petitioner is also conducting a monthly chit transaction. The defacto complainant also one of the member in the monthly chit for the past several years. In the meanwhile, the defacto complainant has deposited a sum of Rs.5 lakhs in the Finance Company. The petitioner has also issued a receipt and agreed to repay the amount to the defacto complainant in the year of 2016. After lapse of deposit period, the petitioner failed to repay the said amount and his son has also cheated some other persons. Thereafter, the petitioner has filed a insolvency petition before the lower Court. Hence, the present complaint.



3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent Police.

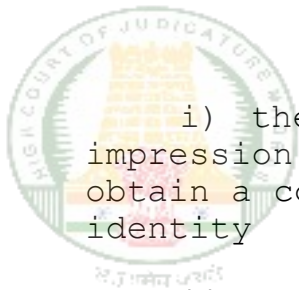
4. The learned counsel appearing for the petitioner submitted that the defacto complainant has deposited a sum of Rs.5 lakhs in the Finance Company and the same has not been returned the deposit amount to the defacto complainant. In fact, so many persons have borrowed loan amount of Rs.47 lakhs and the said amount has not yet been repaid so far. Hence, the petitioner could not able to run the Finance company. In the meanwhile, the defacto complainant has threatened the petitioner, the petitioner has lodged a complaint to the respondent police dated 06.07.2020. The respondent police has not taken any action as against the defacto complainant. Due to non recovery of the borrowed loan amount from the above said Finance Company, the petitioner is not able to run the company. Hence, the petitioner filed the insolvency petition before the II Additional Sub Court, Tiruchirappalli and insolvency petition suit in I.P.No.22 of 2020 is pending. The petitioner is a 70% disabled person and the petitioner is in incarceration for more than 20 days and hence, he may be released on bail.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that totally there are two accused in this case, in which, the petitioner has been arraigned as A2. He further submitted that the defacto complainant has deposited a sum of Rs.5 lakhs in the Finance Company, which run by the petitioner. The petitioner was also issued a receipt and agreed to repay the amount in the year of 2016. After lapse of deposit period, the petitioner failed to repay the said amount and his son has also cheated some other persons.

6. It is seen that totally there are two accused in this case, in which, the petitioner has been arraigned as A2. According to the prosecution, the petitioner has received a sum of Rs.5 lakhs from the defacto complainant and promised to return back with huge interest. Therefore, he filed a petition for declaring him as insolvent in I.P.No.22 of 2020 on the file of the II Additional Sub Court, Tiruchirappalli and it is pending.

7. Considering the facts and circumstances of the case and also considering the period of incarceration and age of the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Musiri, Trichy District.



i) 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

ii) the petitioner shall report before the respondent police daily at 10.30 am for a period of four weeks and thereafter as and when required for interrogation.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) 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].

vi) If the petitioner/A2 thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

18/12/2020

/ 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, MUSIRI, TRICHY DISTRICT.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
THOTTIYAM POLICE STATION, TRICHY DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
5. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.14496 of 2020

Date : 18/12/2020

VSG

TK/PN/SAR.3/18.12.2020/3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>