

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Second day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.3761 of 2021

KANNAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
PERUNDURAI POLICE STATION,
ERODE DISTRICT.
CR.NO.466/2019.

[RESPONDENT]

For Petitioner : M/S.M.A.SAHUL HAMED, Advocate

For Respondent : MR.S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners, who apprehends arrest for the alleged offences under Sections 420 and 506(i) of Indian Penal Code 1860, in Crime No.466 of 2019, on the file of the respondent Police, seek anticipatory bail.

2. Totally there are 5 accused in this case and the petitioner is A2. A1 is the owner of the car and he promised to sell the car to the defacto complainant and received a sum of Rs.1,50,000/- as part of sale consideration. Subsequently A1 handed over Original RC book to the defacto complainant, but he failed to deliver the car and later informed the defacto complainant that A2 will hand over the car, if he pay the balance amount to A2. It is alleged that the petitioner/A2 is an employer of A1 hence, he has been implicated in this case.

3. The learned counsel for the petitioner would submit that A1 is the owner of the car and there was business transaction between the petitioner/A2 and A1 and A1 had cheated the petitioner's money to the tune of Rs.17,00,000/-. Due to which A1 has falsely implicated petitioner in this case. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional public prosecutor would submit that A1 is the owner of the car and he colluded with A2 and received a valuable sale consideration from the defacto complainant to sell a car and not yet delivered the car and cheated the defacto complainant. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. On a perusal of records it is seen that the defacto complainant is a retired police officer and at his instigation only, the respondent police have registered a case against the petitioner. The petitioner has also filed a petition U/s 482 of Cr.P.C of 2019, wherein this Court had passed an order in CrI.O.P.No.16990 of 2019 dated 01.07.2019 directing the respondent police not to interfere with the money dispute and the respondent police have no role to play in the case of this nature. Thereafter, the defacto complainant has filed the present complaint on 02.07.2019 falsely implicating this petitioner.

6. Considering the facts and circumstances of the case and also the fact that there was long standing money dispute between A1 and A2/petitioner and the defacto complainant is a retired police officer and at his instigation only the respondent police have registered a case against the petitioner. The petitioner had already approached this Court seeking interim protection, wherein this Court directed the respondent police not to interfere with the money dispute, this court is inclined to grant anticipatory bail to the petitioner with stringent conditions.

6. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate Perundurai, Erode District 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix his 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.

[b] the petitioner shall report before the respondent Police as and when required for interrogation.

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

[d] the petitioner 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 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions this Criminal Original petition is ordered.

-sd/-
02/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
PERUNDURAI,

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERUNDURAI POLICE STATION,
ERODE DISTRICT.

CC to M/S.A.RAJA MOHAMED Advocate on payment of necessary charges

WEB COPY

CRL OP.3761/2021

Date :02/03/2021

TA-11/03/2021