

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2021

CORAM :

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

Crl.O.P.No.8833 of 2021

C.Mathivanan
Petitioner

...

Vs.

State Rep by
The Inspector of Police,
Thiruvottiyur Police Station,
Crime Branch,
Chennai District,
(Crime No.169 of 2021)
...Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Cr.P.C.,
to enlarge the petitioner on bail in the event of his arrest in Crime No. 169
of 2021 on the file of the respondent.

For Petitioner : Mr.G.Punniyakoti

For Respondent : Mr.C.E.Pratap

Government Advocate (Crl. Side)

For Intervenor : Mr.Dr.G.Krishnamurthy

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 406, 420 and 506(i) IPC. in Crime No.169 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is running a transport business and he borrowed a sum of Rs.1,30,000/- from the defacto complainant, whereas he refused to return back the money to the defacto complainant. Hence, the complaint was registered.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and that he has been falsely implicated in this case. The learned counsel, on instructions, would further submit that the petitioner, without prejudice to his rights, is ready to deposit the amount of Rs.50,000/- to the credit of the crime number and also conceded the same to be disbursed to the defacto complainant. However, the learned counsel submitted that before disbursing the amount to the defacto complainant, an affidavit of undertaking shall be obtained from the defacto complainant

stating that in the event of the petitioner succeeding the case, the amount of Rs.50,000/- will be returned to him.

4.The learned Government Advocate (Crl.Side) submits that the investigation has been completed. However, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. The learned counsel for the Intervenor submits that the petitioner has received a sum of Rs.1,30,000/- from the defacto complainant and he has not repaid the amount. Hence, he strongly opposed for grant of anticipatory bail to the petitioner.

6.Considering the fact that the petitioner is ready to deposit the amount of Rs.50,000/- to the credit of the crime number, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thiruvotiyur, on condition that 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of Cr.No.169 of 2021 before the learned Judicial Magistrate, Thiruvotiyur, within a period of four weeks from the date of receipt of a copy of this order . On such deposit being made, the learned Judicial Magistrate, Thiruvotiyur, shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of Rs.50,000/- deposited by the petitioner to the credit of Cr.No.169 of 2021 will be returned to the petitioner and after obtaining such affidavit of undertaking from the defacto complainant, shall disburse the said amount to the defacto complainant within a period of two weeks thereafter;

(b) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned 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. until further orders;

(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 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;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

15.06.2021

msrm

To:

1. The learned Judicial Magistrate, Thiruvotiyur.
2. The Inspector of Police,
Thiruvottiyur Police Station,
Crime Branch,
Chennai District,
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.

M.DHANDAPANI, J.

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15.06.2021

Crl.OP.No.8833 of 2021**M.DHANAPANI,J.**

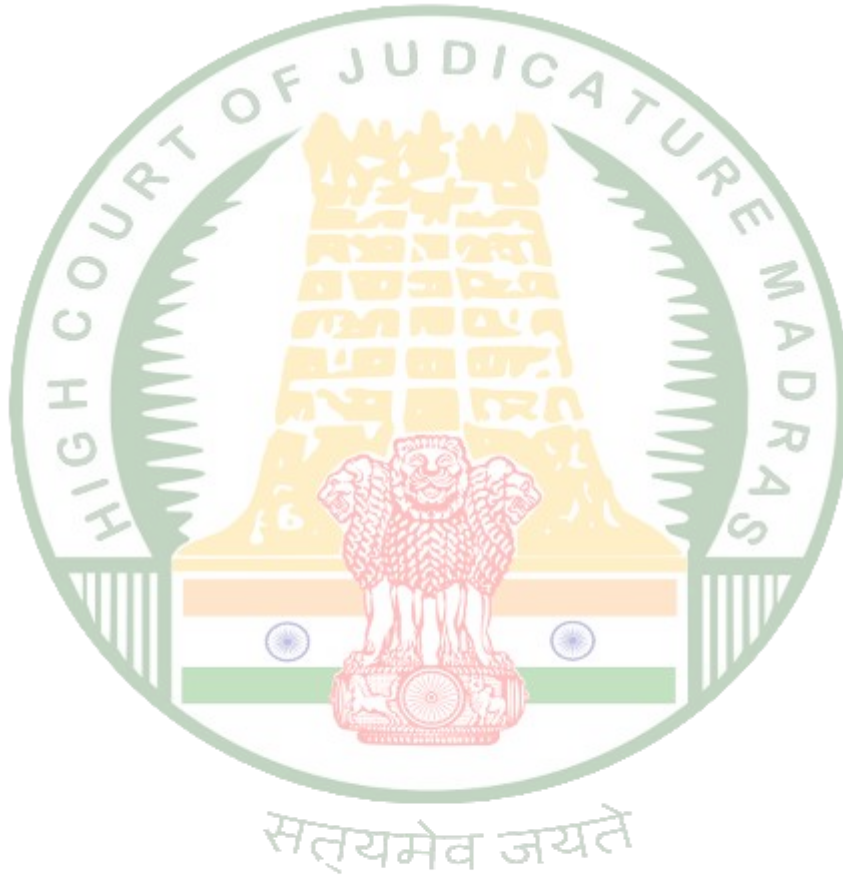
The matter has been listed today under the caption “for being mentioned”.

2. The learned counsel for the petitioner submitted that the crime number has been wrongly typed in Crl.Op.No.8833 of 2021 dated 08.09.2021. Therefore, the learned counsel for the petitioner prays to rectify the same.

3. In view of the above submission made by the learned counsel for the petitioner, this Court finds that due to typographical error, the crime number has been wrongly mentioned in the said order. Therefore, this Court is inclined to modify the crime No.169 of 2021 instead of Crime. No.178 of 2021 in Crl.OP.No.8833 of 2021 dated 15.06.2021. All the other observations made in the earlier order dated 15.06.2021 shall remain intact.

4. Registry is directed to make necessary correction and issue a fresh order copy.

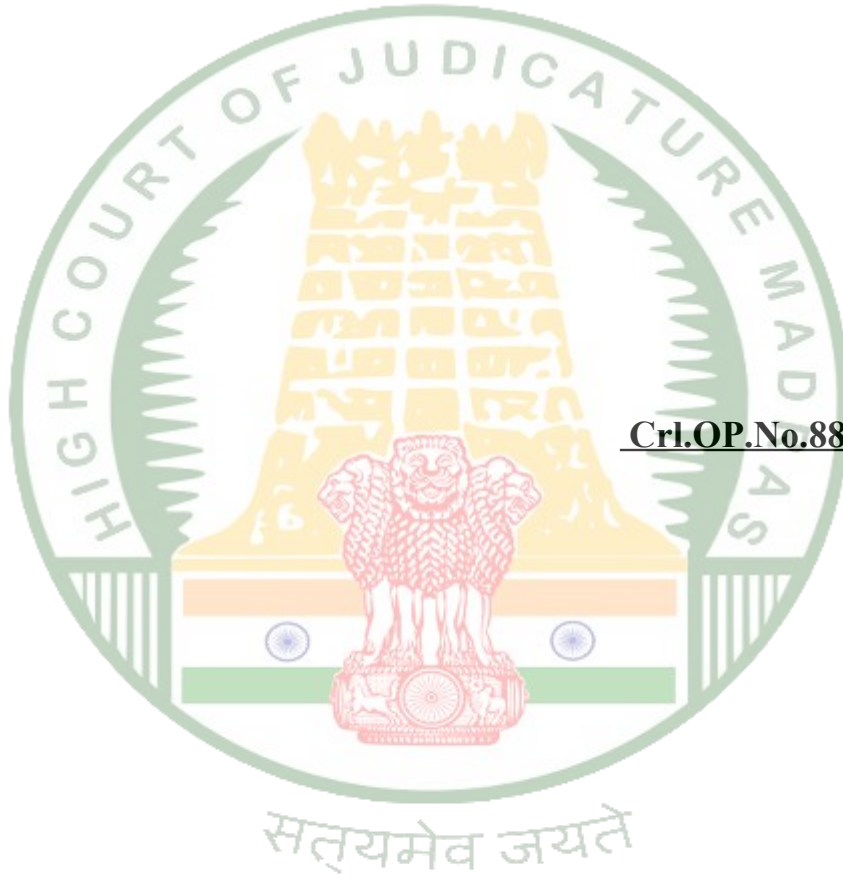
08.09.2021**smn**<https://www.mhc.tn.gov.in/judis/>



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M.DHANAPANI,J

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Crl.OP.No.8833 of 2021

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08.09.2021