



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventh day of October Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.18924 of 2021

SHANE JOSEPH GOMES

[PETITIONER / ACCUSED]

Vs

1 STATE REP.BY

[RESPONDENTS]

THE INSPECTOR OF POLICE,
S1 POLICE STATION,
ALANDUR RAILWAY STATION ROAD,
ST.THOMAS MOUNT, CHENNAI-600 016.

2 THE PRESIDING OFFICER,
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE,
6, OLD CITY, GHEEKANTA, BHADRA, AHMEDABAD,
GUJARAT-380001.

For Petitioner : M/S.R.PRABHAKARAN Advocate

For Respondent : MR.C.E.PRATAP, Govt. Advocate (Crl. Side)

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

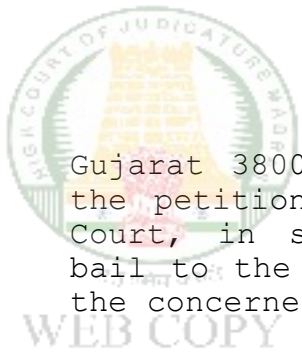
ORDER : The Court Made the following order :-

The petitioner, who is arrayed as accused, apprehends arrest for the offences punishable under Section 138 NI Act in CC No. 12537 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The petitioner filed this petition under Section 438 Cr.P.C, who have been accused of non-bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, has approached this Court for Anticipatory Bail, so as to enable him to approach the appropriate Court.

3. The case of the prosecution is that the petitioner had availed loan of Rs.25,00,000/- with Kotak Mahindra Bank Ltd and during the pandemic situation, the petitioner was unable to clear the payments. Hence, the complaint.

4. The learned counsel for the petitioner would submit that the petitioner was implicated for the offences under Sections 138 of NI Act, on the file of the Presiding Officer, Additional Chief Metropolitan Magistrate, 6, Old City, Gheekanta, Bhadra, Ahmedabad,



Gujarat 380001, in which, the Gujarat police has issued summons to the petitioner for his appearance. He further submitted that this Court, in similar circumstances, has granted interim anticipatory bail to the accused to enable him seek appropriate Bail Orders from the concerned Court.

5. Heard the learned Government Advocate(Crl.Side) appearing for the State.

6. The issue as to whether, in respect of the persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if his arrest is sought within the jurisdiction of this Court, irrespective of the fact that he is a resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, came up for consideration before the Division Bench of this Court in the case of *S.P.Shanthi Swaroop v. State of Tamil Nadu*, rep. By Asst. Commissioner of Police, Central Crime Branch, Madras reported in 1992 L.W.(Crl).475. After elaborate discussions, decisions and considering the ratio laid down by the Patna High Court in *Syed Safrul Hassan v. State* has passed the following order:-

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the meantime. The reference is answered accordingly."

7. Thereafter, a learned Single Judge of this Court in the case of *P.Thangavelu and others v. State*, rep. By the Inspector of Police and other reported in 2017 (2) MWN (Cr.) 633 has passed the following orders,

"9.Thus , it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of



India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioners for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10. Accordingly, Interim Anticipatory Bail is granted to the Petitioners herein till 01.08.2016. The Petitioners are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

(i) Each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 01.08.2016, the petitioners shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

8. In view of the decisions cited supra, I am inclined to grant interim anticipatory bail to the petitioner till 03.12.2021. Accordingly, interim anticipatory bail is granted to the petitioner till 03.12.2021. The petitioner is directed to be enlarged on bail in the event of arrest or on his appearance before the first respondent police and on further condition that:

(i) the Petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;



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(ii) within the said period, i.e., before 03.12.2021 the petitioner shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

-sd/-
07/10/2021

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,
ALANDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
S1 POLICE STATION,
ALANDUR RAILWAY STATION ROAD,
ST.THOMAS MOUNT, CHENNAI-600 016.

4 THE PRESIDING OFFICER,
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE,
6, OLD CITY, GHEEKANTA, BHADRA, AHMEDABAD,
GUJARAT-380001.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.R.PRABHAKARAN Advocate on payment of necessary charges

CRL OP.18924/2021

Date :07/10/2021

CSK 02/11/2021