

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.19509 of 2020

M.GANESAN

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

INSPECTOR OF POLICE,

D-2, SELVAPURAM CRIME POLICE STATION,

COIMBATORE.

CRIME NO.1492/2020

For Petitioner : M/S K.P.SATHISH KUMAR Advocate

For Respondent : M/S.K.PRABAKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 406 and 420 of IPC. in Crime No.1492 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is a gold smith and received 3218.100 grams of gold from the defacto complainant for making jewels and only returned only 773.360 grams of gold and failed to return the balance gold of 2444.740 grams and thereby cheated the defacto complainant. Hence the defacto complainant filed a complaint before the law enforcing agency against the petitioner.

3. The learned counsel appearing for the petitioner submits that the petitioner only received 1.58 grams of gold and he has prepared a gold chain weighing 788 grams and returned to the defacto complainant. He further submits that the defacto complainant has not paid the labour charges and there was some dispute between them due to which a false complaint has been lodged against the petitioner. He further submits without prejudice to his defence and contentions the petitioner in order to show his bonafide, on his own volition, is

ready and willing to deposit a considerable amount to the credit of above crime. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submits that the petitioner is a gold smith and he has cheated the defacto complainant in a business transaction and stolen gold worth 1000 grams approximately. Hence he vehemently opposed for grant of anticipatory bail to the petitioner.

6. Considering the submission so made by the learned counsel on either side, which shows that there was some dispute between the petitioner and the defacto complainant in a business transaction and further the petitioner, on his own volition, is ready and willing to deposit a considerable amount to the credit of the above Crime No., this Court is inclined to grant anticipatory bail to the petitioner with some stringent conditions.

7. Accordingly, the petitioner is directed to deposit 1000 grams of gold or the value of 1000 grams of gold prevailing on the date when such deposit is made, to the credit of Crime No.1492 of 2020 on the file of the Judicial Magistrate No.5, Coimbatore and on such deposit being made, the petitioner shall be released on bail in the event of arrest or on his appearance, within a period of three weeks from the date on which the order copy is made ready, before the Judicial Magistrate No.5, Coimbatore and on further 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(a) 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;

(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 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]; and;

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

-sd/-
08/04/2021

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,
NO.5, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
D-2, SELVAPURAM CRIME POLICE STATION,
COIMBATORE.

+1 CC to M/S K.P.SATHISH KUMAR Advocate on payment of necessary charges SR.No.4650

CRL OP.19509/2020

Date :08/04/2021

cs 17/04/2021