



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/02/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.648 of 2021

M.Samraj Jesudoss

... Petitioner

Vs

State Rep. by
The Inspector of Police,
City Crime Branch, Trichy.
(Crime No.20/2020).

... Respondent

For Petitioner : Mr.Matthew.D.,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

For Intervenor : Mr.Senthil Kumar.
Advocate

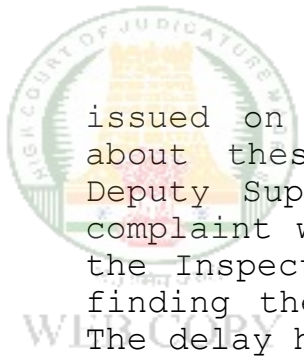
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.20/2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 of IPC seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant John Mathuram by profession had previously engaged the petitioner herein as agent to collect rent for various properties she was having and also paid taxes. Two year prior she found that the petitioner herein had not properly accounting for collection and also misappropriated her funds. Hence he was stopped from coming to work. During employment the defacto complainant signed cheques and other documents were left with the petitioner, hence he had stolen four cheques from the defacto complainant and had taken Rs. 10 lakhs. Under Section 138 of the Negotiable Instrument Act was



issued on 14.01.2020 then only defacto complainant came to know about these facts. Immediately she lodged complaint before the Deputy Superintendent of Police on 31.01.2020 and thereafter the complaint was forwarded to the Assistant Commissioner and later to the Inspector of police and he after conducting preliminary enquiry finding the truth in the complaint had registered the above case. The delay had occurred due to Covid-19 restrictions and lock down.

3. The learned counsel for the petitioner would submit that the petitioner and the defacto complainant are relatives and he never worked under her and there is no necessity to work under her. The petitioner is a businessman dealing in Car décor works in the name of J.J.Car Decors. The defacto complainant for her urgent family needs and other needs had taken a loan of Rs.24 lakhs from the petitioner and he has proof for the same. For the said liability the defacto complainant had issued four cheques during the first week of November 2019, out of which two cheques were presented on 25.11.2019 and 12.12.2019. The cheques were returned on 16.12.2019. Legal notice was sent on 14.01.2020. The defacto complainant had filed a case under Section 138 of the Negotiable Instrument Act and the case has been taken cognizance in STC No. 1924 of 2020 on the file of the learned Judicial Magistrate No.IV,Trichy. Summons were sent on 19.06.2020, 10.09.2020, 10.12.2020. On 10.12.2020 an advocate on behalf of the defacto complainant appeared, entered appearance and the case stands to 03.02.2021. He further submitted that a false case has been foisted against the petitioner.

4. The learned counsel for the intervenor would submit that Madhuram Family is a reputed family having good reputation in the society and they also have a nursing home. She is aged about 70 years. Due to her old age, she trusted the petitioner who is her relative employed him as agent to look after the estates, during that time cheques and other documents were entrusted to the petitioner. Two years prior the petitioner was found not properly accounting for the same, hence his service was discontinued. The petitioner misusing the cheques which was in his possession during employment with the defacto complainant had utilized these cheques and a false case registered against the defacto complainant. Further the defacto complainant has no necessity to take loan of 24 lakhs from the petitioner. Further the defacto complainant had entrusted the bank to make stop payment for misusing cheques.

5. The learned Government Advocate(Crl.Side) would submit that the case came to be registered on 31.12.2020. The defacto complainant had initially lodged a complaint to the Deputy Superintendent of Police which was forwarded to the respondent police and after conducting enquiry a case came to be registered. Investigation has just commenced.

6. From the perusal of the materials it is seen that the issue in this case is based on cheques of the defacto complainant.



complainant. The petitioner herein had presented the cheque, issued statutory notice, no reply received and hence filed a private complaint under Negotiable Instrument Act in STC No. 1924 of 2020 which is pending on the file of the learned Judicial Magistrate No.IV,Trichy. Now the petitioner had entered appearance.

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7. In view of the same without expressing any opinion with regard to the contention of either parties and also considering the fact that 138 Negotiable Instrument Act case is pending , this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.IV, Trichy 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 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 daily at 10.30 a.m., for a period of two weeks and thereafter 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;

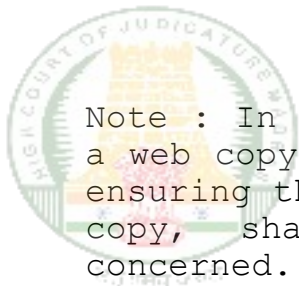
(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
03/02/2021

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/ /2021

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.

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- TO
- 1 THE JUDICIAL MAGISTRATE NO.IV,
TRICHY.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI.
 - 3 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TRICHY.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.D.MATHEW, Advocate (SR-711[I] dated 04/02/2021)

ORDER
IN
CRL OP(MD) No.648 of 2021
Date :03/02/2021

aav
JM/VR/SAR IV/08.02.2021/4P/6C